

THE CALCUTTA JOURNAL,

OF

Politics and General Literature.

VOL. VI.]

MONDAY, NOVEMBER 18, 1822.

[No. 276]

MISCELLANEOUS.

—225—

Navigation Laws.

MEASURES INTRODUCED BY MR. WALLACE FOR THE IMPROVEMENT OF THE NAVIGATION LAWS.

If the navigation act be suffered to run the full length of its principle, and is not changed, and modified according to the change of times and fluctuation of circumstances, it must do great mischief, and frequently even defeat its own purposes.—BURKE.

Scotsman, Saturday, June 8, 1822.

The measures now before Parliament for repealing some of the existing provisions in our navigation laws, and relaxing and changing others, seem to us to be of the greatest importance. The present navigation law is ill-defined; its enactments are obscure, contradictory, and illiberal. Its intricacy has embarrassed and perplexed the operations of merchants and navigators; and the exclusive and selfish spirit which pervades it has excited the hostility of other nations, and has led them to retaliate in a way that has proved extremely prejudicial to our commerce. It is proposed by Mr. WALLACE to simplify the present law, by repealing between two and three hundred antiquated and contradictory statutes passed previously to the reign of CHARLES II.; and to modify and relax several of its existing provisions, so as to facilitate the intercourse of foreigners with this country. The bills introduced by him appear to be well fitted for accomplishing these desirable objects: And there is reason to expect, that the advantages, of which they cannot fail to be productive, will pave the way for still farther improvements in our system of commercial legislation.

The origin of the navigation laws may be traced to the reign of RICHARD II., or, perhaps, to a still more remote period. But as no intelligible account of the various enactments on the subject could be compressed within our narrow limits, we shall merely observe, that in the reign of HENRY VII., the importation of certain articles was forbidden unless brought in English ships manned by English seamen. In the early part of the reign of ELIZABETH, foreign ships were excluded from our fisheries and coasting trade. The Republican Parliament gave a great extension to the navigation laws by the act of 1650, which prohibited all ships of all foreign nations whatever from trading with the Plantations in America, without having previously obtained a licence. These acts were, however, rather intended to regulate the trade between different parts and dependencies of the Empire, than to regulate our commerce with foreigners. But in the following year, (9th Oct. 1651), the Republican Parliament passed the famous act of navigation. This act had a double object. It was designed not only to promote our own navigation, but also to strike a decisive blow at the naval power of the Dutch, who then engrossed almost the whole carrying trade of the world. It enacted, that no goods or commodities whatever of the growth, production, or manufacture of Asia, Africa, and America, should be imported either into England or Ireland, or into any of the Plantations, except in ships belonging to British subjects, and of which the master and the greater part of the crew were also Britons. Having thus secured the import trade of Asia, Africa, and America, to the British ship-owners, the act went on to secure them, as far as that was possible, the import trade of Europe, and to harass and limit the car-

rying trade of the Dutch. For this purpose, it further enacted, that no goods of the growth, production, or manufacture, of any country in Europe, should be imported into Great Britain, except in British ships, or in ships which were the real property of the people of the country in which the goods were produced, or from which they were primarily exported. Such were the leading provisions in this famous act. They were adopted by the regal government which succeeded CROMWELL, and form the principal provisions of the statute 12. CAR., II. cap. 18., which remains to this day the basis of our navigation laws, and has been pompously designated the *Charta Maritima* of England!

In the 13-14. CAR. II., a supplemental statute was passed, avowedly with the intention of obviating some evasions, of the statute of the preceding year, which, it was affirmed, had been committed by the Hollanders and Germans. This, however, seems to have been a mere pretence, to excuse our desire to follow up the blow aimed by the former statute at the carrying trade of Holland. And so great was our jealousy of the naval and commercial grandeur of the Dutch, that, in order to cripple it, we did not hesitate totally to proscribe the trade with Holland; and to prevent the possibility of fraud, or of clandestine or indirect intercourse with that country, we went so far as to include the commerce with the Netherlands and Germany in the same proscription! The statute 13-14. CAR. II. prohibited all importation from these countries, except of a few specified articles, under any circumstances, or in any vessels, whether British or foreign, under penalty of the seizure and confiscation of the ships and goods! So far as it depended on us, Holland, the Netherlands, and Germany were actually placed without the pale of the commercial world!

None have presumed to say one word in favour of the motives which dictated these statutes. It has been said, however, and by no less an authority than Dr. SMITH, that national animosity did, in this instance, that which the most deliberate wisdom would have recommended. Dr. SMITH approves of the navigation laws, because they were well calculated to repress the naval greatness of Holland, then the only power whose fleets could contend with those of England. He admits, distinctly, that they are not favourable to commerce; but considering security as of greater importance than wealth, he has eulogised them, because, at the time when enacted, they were the best means of humbling our maritime rivals, and of raising a navy.

We shall not stop to examine the validity of this apparently very questionable reasoning. It is sufficient to observe, that however politic these laws may have originally been, the circumstances and condition of this country and of Europe have since been totally changed. The envied wealth and commercial greatness of Holland have passed away. She has ceased to be the emporium of Europe. We have no longer any thing to fear from her hostility. And the real question which now presents itself for our consideration is,—not what are the best means by which we may rise to naval greatness, but—*what are the best means of preserving that undisputed pre-eminence in maritime affairs to which we have now arrived!*

Now, it does not really seem that there can be much difficulty in deciding this question. Navigation and naval power are the children, not the parents—the effect, not the cause—of commerce. If the latter be increased, the increase of the former will follow as a matter of course. More ships and more sailors become necessary according as the commerce between different and

distant countries is extended. It might be good policy for a country, circumstanced like Great Britain in the reign of CHARLES II., when her shipping was comparatively limited, to exclude foreign vessels from her harbours; but it is plainly not by such regulations, but by the aid of a flourishing and widely extended commerce, that the immense mercantile and warlike navy she has now accumulated can be supported. If commerce declines, the navy will also decline; if it be augmented, the navy will be rendered still more powerful. There is no instance in the history of the world of a nation having a powerful navy without an extended commerce; nor of a nation having an extended commerce without its also being possessed of great naval force. The one is almost always directly as the other. Suppose it were possible for a nation without foreign trade to build ships and man them, of what use would they be? Courage without skill can never be a match for courage and skill united. A ship manned with thorough-bred seamen will always make an easy conquest of a ship manned by landmen or inexperienced seamen. It will not be said that the Americans are braver than the French; what then was the cause of the very different success which attended their cruisers in their engagements with our ships during the late war? Was it not entirely owing to the better training of the Americans, to their having been accustomed from their infancy to make long voyages, and to brave the dangers of the sea in their merchant ships? Whatever Mr. SPENCE and his followers may say about Britain being independent of commerce, you may depend upon it, her naval pre-eminence will be lost the moment she loses her commercial pre-eminence. The former is entirely dependent on the latter. We might be independent, though that is exceedingly doubtful, without commerce; but we should certainly be poor and miserable; and from occupying the first place in the first rank among nations, we should sink to the lowest place in the third or fourth rank!

But to continue to enforce the existing provisions of the navigation laws would, in the present state of the world, certainly be among the most efficacious means that could be devised for the destruction of our commerce. The wealth and power to which Britain has attained has inspired other nations with the same feelings of envy, jealousy, and hatred, that the wealth of Holland formerly generated in our minds. Every country is making haste to imitate our example. America, Prussia, and now Russia, have all their navigation laws—their *Chartae Maritimae*—copied, to the very letter, from our own! Every post, to use Mr. WALLACE's expression, brings us intelligence of some fresh restriction or prohibition. The same engines by which we laboured to destroy the trade of Holland, are, by a just retaliation, brought to operate against ourselves. And if we do not renounce our illiberal and exclusive system—if we do not set a better example to others, and teach them the advantage of recurring to sounder and more liberal principles, we shall certainly fall a victim to the vindictive spirit which our own short-sighted and selfish policy has generated.

Such being the cases we are truly glad to observe that Ministers have felt the necessity of yielding to circumstances. The bills now before Parliament ought, we think to go much farther, but notwithstanding their limitations, they will effect a great and decided improvement in some of the worst parts of our commercial system. In the first place, they enact, that the commerce with all the European countries in amity with Great Britain shall be placed on precisely the same footing, and subjected to precisely the same regulations. The existing memorials of our former animosity, and of our jealousy of the prosperity of our neighbours, will thus be done away. The commerce with Holland, Belgium, and Germany, will be relieved from proscription; and it will cease to be a "damnable offence" to import articles from Amsterdam or Ostend, which it is highly meritorious to import from Calais, or any other European port! Besides the grand distinction in the case of Holland and the Low Countries, there are, at present, some less important distinctions affecting the commerce with Russia and Turkey; but these also are to be abolished, and the same law is henceforth to regulate our intercourse with every European power. This uniformity will be of singular

advantage. Besides giving greater scope to the operations of the merchants, and extending our traffic with some of our most opulent neighbours, the proposed measure will remove one great source of embarrassment, uncertainty and litigation. If it does not excite the gratitude, it will, at least, weaken the resentment of the Hollanders and Belgians; and will detract considerably from that character of selfishness and exclusion, which is believed on the Continent, and not without good reason, to be the animating principle of our commercial system, and which has already led, and, if it be not materially modified, must continue to lead to a severe retaliation.

In the second place, it is proposed that the produce of all European countries should be allowed to be imported into Britain by the ships belonging to the ports where such produce may happen to be deposited. By the existing law no produce can be imported except in a British ship, or in a ship belonging to the country where the article is produced, or from which it is first shipped. The consequence is, that if, in a foreign port, articles, the produce of France, Spain, and Italy should be found, all of which it might be desirable for a foreign merchant to send to this country, they can only come in a British ship, or separately in French, Spanish, or Italian ships! This is obviously a very great hardship on the foreigners, and is of no real advantage to our shipowners. If the foreign merchant has vessels of his own, it is not very probable he will permit them to remain unoccupied, and freight a British vessel; and it is stated by Mr. WALLACE, that there is scarcely a port in which foreign bottoms may not be found in which the articles may be legally imported. The real effect of the regulation has not been to cause the employment of British ships, but to force foreigners to assort their cargoes less advantageously than they might otherwise have done; and it has thus indirectly tended to lessen their intercourse with our markets. The proposed regulation will obviate this inconvenience, at the same time that it will prevent the shipping of any particular country from becoming the carriers of the produce of other countries to our markets.

The third regulation proposed in the bills now before Parliament is of such obvious and unquestionable utility, that we are astonished it was not long since adopted at the suggestion of the shipowners themselves. By the law, as it now stands, all articles which are the produce of Asia, Africa, and America, must be imported directly in a British ship, from the place of their production; and hence although a British ship should find in America, in African or in Asiatic ports, articles the produce of any of the other quarters of the globe, suitable for our market, and with which it might be extremely advantageous for her to complete her cargo, she is prohibited doing so under penalty of forfeiture and confiscation, not only of the goods, but also of the ship! This most absurd regulation is now to be repealed; and it is in future to be lawful for British ships to take on board articles, whose importation is not prohibited, whenever they find them, without regard to the country where they were produced.

The only other new enactment we shall now advert to, is that which Mr. WALLACE has proposed for regulating our commerce with South America. Instead of excluding all the products of the Free States now forming out of the *ci-devant* Spanish colonies from our markets that are not imported in British ships, Mr. WALLACE proposes, that the ports of Britain shall be opened to South American ships on the same terms that the ports of South America are opened to the ships of this country! If we are not much mistaken, this is the very first instance, from the reign of RICHARD II. down to the present day, in which any one of our enactments relating either to commerce or navigation has been bottomed on a fair principle of reciprocity. In this case, we have put ourselves on the right side. If the naval intercourse between the South Americans and ourselves continues to be fettered and restricted, the fault is theirs, not ours. We proclaim our readiness to meet concession by concession. We say to the South Americans, if you receive our ships into your ports without restriction or limitation, we shall do the same with yours. Had we always acted thus, we should never have heard of the navigation laws of America and Russia. But it is better late than never.

Mr. Wallace has introduced another extremely important set of regulations, intended to facilitate the transit of foreign goods, and to extent the warehousing system. But we must defer the examination of these regulations to another opportunity. The introduction of the warehousing system was the greatest practical improvement ever made in the commercial legislation of the country; and by carrying it to its proper extent, much would be done really to render Britain, what Holland, when in the zenith of her prosperity, was said to be, *Universi Orbis terrarum emporium*.

The country is deeply indebted to Mr. Wallace for the intrepidity, liberality, and intelligence he has displayed in introducing and supporting the measures in question, in despite of the opposition of a large proportion of the shipping interest. Mr. WALLACE's speech last session, prefatory to his moving the resolutions on which the bills are founded, and his late speech on the same subject, are throughout sound and liberal, and evince a strong desire to go much farther than he has at present found it prudent to attempt.

London, Wednesday, June 12, 1822.—We received the Paris Papers of Sunday last night by Express.

They contain extracts from the *ALGEMEINE ZEITUNG*, a paper, of which the intelligence from the East has generally been good, affording particulars of the naval victory gained by the Greeks, which seems to be now placed beyond doubt. They contain also the melancholy details of Turkish atrocities for many of which we are afraid England must be held responsible. Ten thousand women and children were, it is said, lately sold as slaves at 10 and 15 piastres a head! What a howl would have been set up if as many hundred negroes had been disposed of in the same manner.—God forbid that we should think lightly of the traffic in slaves whether black or white; but we cannot certainly think, because nature has been lavish to one race in the endowments both of body and mind, while to the other, she has denied both beauty and genius, that, therefore, the former may be wronged, and the latter may not. The English Government is now upholding the system which produces the white slave trade in the East, and affecting great indignation that it should be carried on by other Powers in the West.

It would seem that the insurrection in the North of Spain is nearly put down; and the French Ultra Papers hold a much less confident language. We learn from them, that the refugees in France, who have refused an amnesty, are waiting for a favourable opportunity to re-enter Spain. And yet the Cordon Sanitaire has not in view the encouragement of revolt!

The following are extracts:

Paris, June 9.—We have received from the frontiers of Spain the following details dated May 29:—"The number of Spanish Royalists who retired to the French territory, after their defeat at Puycedra, amount to 600 men; Colonel Beldam commands them.

"It is stated that the constitutional General d'Esteran Llovera, who attacked Puycedra, had under his orders a corps of 1,200 men, of which 400 were troops of the line.

"The refugees in France perform quarantine in French Car-daigne. They do not wish to profit by the amnesty proclaimed by General Llovera. They wait an opportunity of returning to Spain."—*Journal des Debats*.

Russia.—From the *Constitutionnel*.—We learn by a letter from Odessa of the 13th of May, that there is no longer any mention of the journey of the Emperor to the Crimea. It was supposed that his Majesty would wait the tardy execution of the promises made by the Porte. The *PETERSBURG GAZETTE* and *CONSERVATEUR* have at length broken silence, and speak with indignation of the cruelties committed by the Turks in Wallachia.

Frontiers of Moldavia.—Its results from our private correspondence and the German Journals, that the Turks are far from tirely evacuating the two Principalities. It is true that a great number of Asiatic troops have retired to take up cantonments on

the Right bank of the Danube, but according to our accounts from Vienna of the 27th May, a corps of Janisaries still occupy Bucharest and Jassy. The Aga, since the death of Salish Pasha, exercises the functions of Commander-in-chief. There remain still 500 Turks at Krojava. The fugitive Boyards are not disposed to return home. The Government of the two provinces is still entirely Turkish, that is to say, as many cruelties and vexations are committed as usual, and the Turks still shew the same enmity towards the Russians. Little Wallachia is still occupied and according to the orders of the Divan, 20,000 men have marched on the side of Servia.

All the accounts from Petersburg agree upon this point, that the Russian army will remain provisionally assembled upon the frontiers, and that the Emperor will immediately arrive to review them. The Grand Dukes still remain with the army, and the negotiations continue.

Prince Michael Suzza, who proposed to go to Pisa, has been arrested by the Austrian Government, who have fixed upon Gratz, in Styria, as his compulsory residence.

Bagneres de Bigorre, June 1.—We have this instant learned that the inhabitants of the Valley of Aran have taken up the stone of the Constitution, and that this valley is in full insurrection against the constitutional system. All the details respecting the insurrection of a part of Arragon are fully confirmed.—*Journal de Toulouse*.

We received last night Frankfort Papers to the 5th instant, and Hamburg Papers to the 8th.

A variety of circumstances are contained in them confirmatory of the accounts already received from Constantinople and Vienna. The Emperor of Russia appears to be extremely apprehensive of the effects of education in the Poles; for no Polish youth can hereafter study at a foreign University without a special permission, and all the young men now abroad must return by the 1st of September, 1823. All this is, no doubt, levelled at the German Universities, in which there are no sinecures to seduce the Professors to be idle, or withdraw them from the cause of truth. If they were such monkish receptacles as some other Universities that might be named, the Great Autocrat would be less apprehensive.

The following are extracts:—

Hamburg, June 7.—We have received the following authentic accounts from Constantinople of the 10th of May:—

"Perfect tranquillity still prevails here. All Chiots who have not their wives here are arrested. Yesterday the same measure was adopted towards the Moriots; this pleases the people; on the other hand the Porte has very well received the 12 Deputies from Moldavia and Wallachia, who arrived here some days ago; a splendid palace is assigned them for their residence, they are suffered to want for nothing, and the Porte treats them with all possible attention. They have already had several conferences with the Reis Effendi, and with Halib Effendi, and it seems that two of them will be appointed Princes.

The hopes of Peace increase; the Government had promised, in an official note, that the Principalities should be evacuated by the 5th May: all at once it changed its tone. It is affirmed that Lord Strangford, when he saw that the Porte persisted in its course, even proceeded to threat."—*Benson Hall List*, May 7.

St. Petersburg, May 22.—His Majesty, the Emperor, will certainly set out towards the end of this month, to the first army, commanded by Count Sacken, and means to be at Wilna on the 1st of June, to be present at the fête of the Anniversary of the establishment of the Gmadow Regiment of the Guards which is quartered in that neighbourhood. It is said that there will be a grand and brilliant Review after the arrival of the Emperor at various stations of the 1st Army, especially at Wilna, Moshilew, and Minsk.

The Hereditary Grand Duke and Duchess of Saxe Weimar are expected to leave us on their return home, immediately after the departure of the Emperor.

The trade of Odessa is not in a favourable state at this moment. Business nearly stands still. The Commercial intercourse with Turkey is wholly suspended. Since the beginning of March no ship from Constantinople has approached the harbour of Odessa. The navigation of the Euxine and Egean Seas is very unsafe, on account of the Greek privateers (according to the latest accounts a general change has taken place, and the suspended commercial intercourse is revived).

His Imperial Highness the Grand Duke Nicholas arrived at Wilna on the 8th of May. The two Emperesses, the Grand Duchess Maria and her consort, with their whole suite, left us on the 18th for their summer residences; the Empress Elizabeth is gone to Zurskjeselo, whither the Emperor went two days before; and the Empress Maria to her usual summer abode. 30 wersts from the capital. The celebrated circumnavigator Krusenstern has become Rear Admiral, by the ballot usual in the Russian navy.

Warsaw, May 27.—A decree of his Majesty, of the 9th ult. orders that every young Pole who goes to study at a foreign university, must, have a certificate from his Majesty allowing him to reside abroad. Those who are now abroad must either apply for such permission, or return home by 1st Sept. 1823. Lastly, those Poles who go abroad without obtaining such a certificate, or do not return within the due time, shall be excluded from all public offices and employments.

Copenhagen, June 4.—Our Papers are full of the details of the visit of his Royal Highness the Crown Prince of Sweden, who has been received with uncommon distinction.

Accounts from Genoa, of the 11th May, say, that the plague has broken out at Algiers.—*Hamburgh Papers*, June 7.

St. Petersburg, May 21.—Exchange on London—London, 9½—Amsterdam, 9 13-16—Hamburgh, 8½—Paris, 100½.

Madame Catalani's Concert.—If we may trust Madame Catalani's card of last night, which we are extremely unwilling to do, we have but one more of these delightful Concerts to expect. She announces Wednesday the 12th as the evening of the last Concert which she "will have the honour of giving in London."

Notwithstanding yesterday evening was so extremely warm the Argyll Rooms were crowded to hear her, and the inimitable piece, well known by the name of Rode's variations, threw the whole room into an ecstasy, and was encoored with an enthusiasm such as we have rarely witnessed. Little less delightful was Clementi's *La tu vedrai*, which she sung first. She also gave a charming duo of Napolini's with M. Begrez; Handel's *Holy, Holy, Lord God Almighty*, and Viegler's *Povero cor perche*. In all she was great, unrivalled, wonderful. As far as regards our own particular feelings, however, we should have preferred some production of the Italian stage to the piece from Handel. The subject is so entirely solemn, so truly sacred, that we almost regard any thing beyond the plainest possible enunciation of the notes as a desecration of the religious ideas; while on the other hand it is impossible to rein-in the lyrical genius of Catalani's singing, so as to prevent her from ornamenting the passages, occasionally at least with her delightful cadences and other graces. Our taste may be wrong in this particular: and we are almost inclined to think it must be so, when it is opposed to her practice. Yet perhaps she only sacrificed to the English partiality for Handel, when she chose his *Holy holy*. Certainly she seemed to be more completely in her element, more carried away by her enthusiasm, while singing Rode's Air; and any person who could hear her in that without participating in her enthusiasm, may have been very fit to retail commonplace remarks on crotchets and quavers, or to turn over the leaves to a young lady exhibiting her first Sonata to a select party; but of musical feeling that person must be utterly destitute. It would be injustice to those who sustained the other parts in this concert, not to say that their performances were highly efficient.

Improvement in London.

THE NEW STREET FROM CARLETON HOUSE TO THE REGENT'S PARK.

From the Monthly Magazine.—With an Engraving, Plate LXXXVII

The country readers of the Monthly Magazine, who have not witnessed the progress of the magnificent street, which during the last four or five years has been in course of erection, will do well to consult a map of London duly to understand the great changes which have taken place.

St. Alban's-street which used to face Carleton House, has been taken down together with the houses which intervened between the north end of that street and Piccadilly; and a magnificent street, equal in width to Pall Mall, now crosses Piccadilly and terminates in the County Fire Office.

We then turn to the left, by a superb Colonnade, to which on description can do justice, but of which in our next we will introduce an accurate perspective view.

At the extremity of this charming Crescent, the street again takes a northerly direction, on the site of the ancient Swallow-street, across Oxford-street, even to Portland Place, and the tiers of houses, which are white through the whole extent, are every where in various styles of regular architecture, often highly ornamented, and altogether magnificent.

We here introduce specimens of the centres of two of the tiers of houses, from which our readers may judge of the rest, and in our next number, we purpose to introduce others built in other styles.

The width and length of this division of the main-street, (from the Colonnade to Portland Place) corresponds with the general splendour, and when the whole line is finished, and the street paved and passable, it will constitute a continuation of fine buildings and a *coup d'œil* unequalled in the world.

But the plan has not been confined to the new line of street. It has been extended to the improvement of all the collateral streets. Thus Jermyn-street has been opened at its east and west ends, and Charles-street has been opened into the Haymarket; and to give a finish to this line, the Haymarket theatre has been rebuilt on the eastern side, exactly opposite to Charles-street, and forms an elegant object from St. James's-square. We have annexed a view of this structure, which instead of the barn-like appearance of the old theatre, is now a public ornament.

In the same vicinity other changes on a gigantic scale are taking place.

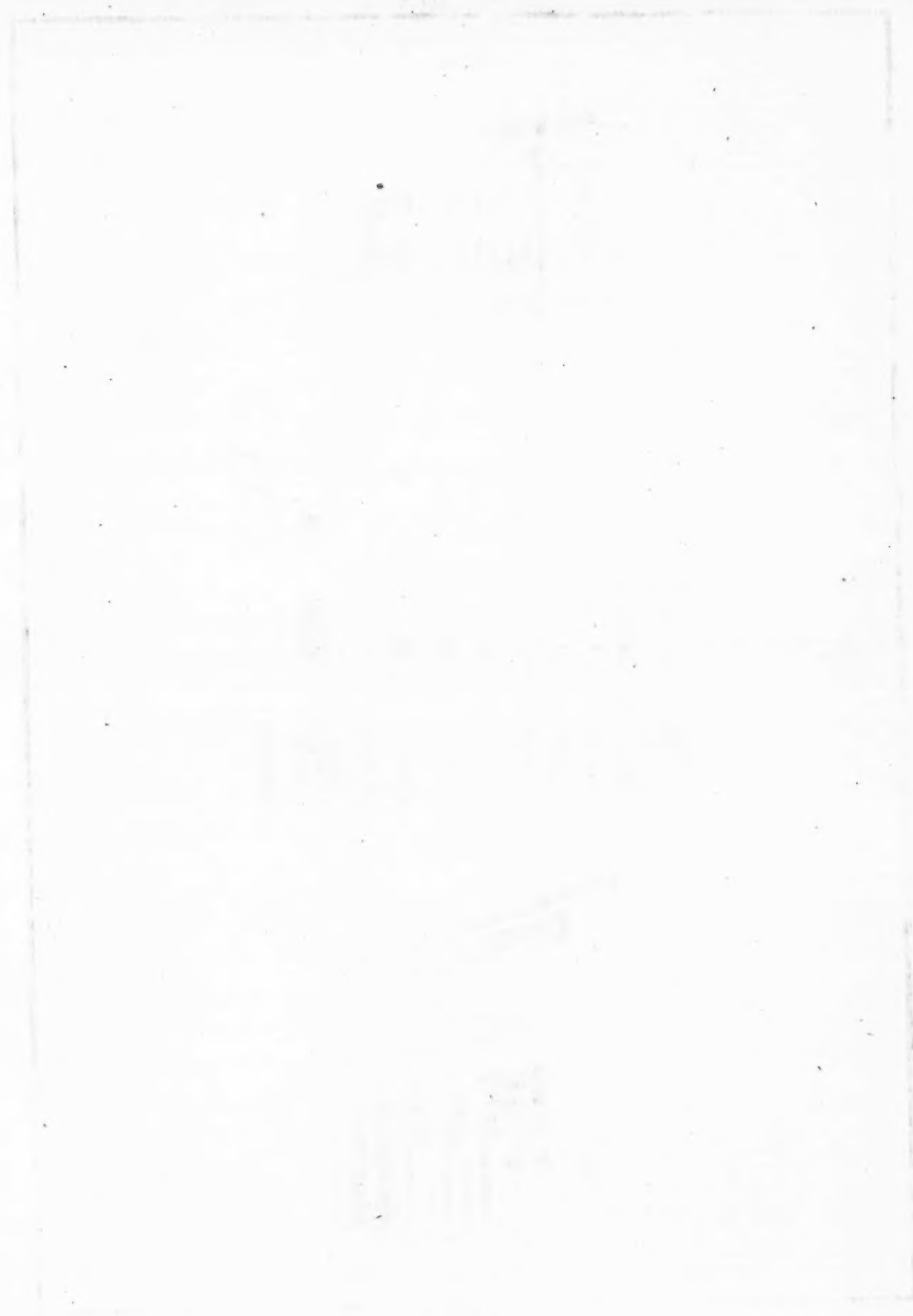
Of the New Opera House, and the splendid arcades of shops by which it is completely surrounded, we have already inserted a view in this Magazine for March, 1819.

But the opposite side of the Haymarket, Suffolk-street, and the north side of Cockspur-street have been taken down, and splendid quadrangles of new buildings, are in course of erection, to form a street in continuation of the line of Pall Mall, which will take in the grand front of the Mews, and terminate in the fine portico of St. Martin's Church.

Of the chief of these novelties we shall as they arise, submit views to our readers.

The architect and presiding genius of the whole, is Mr. Nash, who in spite of puny criticism and trivial objections, will, in the variety and taste of these erections, establish a fame which will vie with that of Inigo Jones, and Sir Christopher Wren.

The patron is THE KING, and the design is as honourable to the patron as creditable to the artist. The execution will remain a monument to the memory of both; and it is deeply to be lamented that a sovereign of such a fine taste, should, in the policy of his government, be often compromised by the acts of some of his obdurate and narrow-minded ministers, who, in their administration, too frequently prove themselves strangers to every generous sympathy of the human heart.

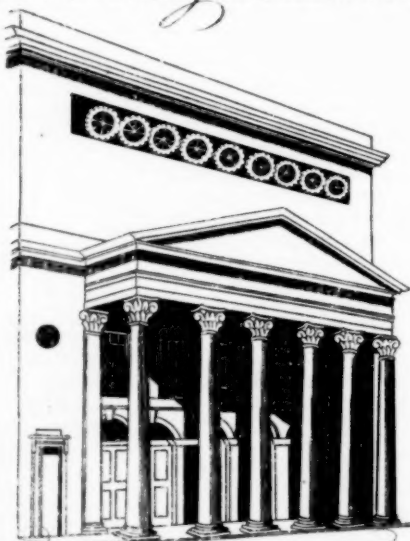




Between the Colonnade and Oxford Street



Between Piccadilly and Pall Mall



The New Haymarket Theatre

Engraved for the Calcutta Journal.

PARLIAMENTARY.

— 229 —

Imperial Parliament.

HOUSE OF LORDS, WEDNESDAY, JUNE 12, 1822.

Mr. HUTCHINSON, and others from the Commons brought up the Cork market bill, which was read a first time.

The following papers were presented at the bar. viz.:—Returns from the Court of King's Bench, Common Pleas, and other Courts, pursuant to orders of the house: the third report of the commissioners of Irish fisheries.

The vagrant laws bill, and the sheriff depute bill, were read a third time and passed. A verbal amendment was made in the latter bill, on the motion of Lord LAUDERDALE.

The recognizance bill was read a second time, and the warrants of attorney bill was committed.

On the motion of the Earl of BLESSINGTON, the Irish deeds' register bill was re-committed, and some amendments were made in the committee.

On the motion of Lord ELLENBOROUGH, the order for committing the marriage act amendment bill was discharged, and renewed for Tuesday, for which day the house was ordered to be summoned. The noble lord stated, that it was with extreme regret, at this late period of the session, that he delayed proceeding with this measure: but he complied with a strong desire which had been expressed for postponing it until the noble earl at the head of the Treasury should be able to attend. —Adjourned.

HOUSE OF COMMONS, WEDNESDAY, JUNE 12, 1822.

Sir T. WINNINGTON presented a petition from certain hop-growers in the county of Worcester, praying for an abatement of the duty on hops.

Mr. NOLAN postponed his motion for leave to bring in a bill to amend the poor laws until the 27th inst.

The report on the bakers' regulation bill was brought up, and ordered to be taken into consideration on Monday.

MILITARY AND NAVAL PENSIONS BILL.

Mr. GREENFELL said, he observed that the above bill stood for committal that night; but as it was probable the adjourned debate would occupy the attention of the house to a late hour, he thought the hon. Gentleman opposite (Mr. Lushington) would see the necessity of postponing the committee upon the bill till another occasion. He desired to know what course would be pursued with respect to the bill, because it was his intention to oppose the clause which provided compensation for the Bank.

Mr. LUSHINGTON said he was not aware that the bill would receive any opposition: however, he did not doubt that his right hon. friend (the Chancellor of the Exchequer) would consent to postpone the committal of the bill.

The report on the assessed taxes' composition bill was received.

IRISH GRAND JURY PRESENTMENTS.

Sir J. NEWPORT moved for and obtained leave to bring in a bill to regulate grand jury presentments in Ireland.

Mr. R. MARTIN moved for leave to bring in a bill for the purpose of regulating the office of coroner in Ireland. The hon. member said his intention was merely to introduce the bill, and to proceed no further with it until next session, in order that in the interim it might come under the notice of the judges in Ireland. —Leave was granted.

Mr. COKE presented petitions from the inhabitants of two hundreds of the county of Norfolk, complaining of distress, and praying for reform.

PETITION FROM NORTHAMPTON.

Lord ALTHORP said he was instructed to present a petition to the house, signed by between six and seven hundred of the freeholders of the county of Northampton. About 400 of the farmers who had signed the petition had attached their names to a requisition, calling upon the High Sheriff to convene a meeting of the nobility, gentry, and clergy of the county, for the purpose of petitioning Parliament; but the Sheriff had refused to comply with the requisition. He had known the gentleman who filled the office of sheriff for many years, and he was convinced that no man was less biassed by improper feeling; but he could not help declaring that in refusing to call a county meeting upon a petition so numerously signed, although by farmers only, he had not exercised a sound discretion. The petitioners complained that they were suffering great distress; but they did not attribute it to low prices. They observed, that prices now were the same as those of 1792, and the

only thing which prevented the present prices from remunerating the farmer, was the difference between the amount of taxation as compared with that of 1792. The Petitioners were of opinion that our present large amount of taxes would not have been imposed, and the country would not have been in a situation of distress, if the people had been properly represented in Parliament; they therefore prayed that the house would take into its serious consideration the state of the representation. The noble lord expressed his concurrence in the sentiments of the petition.

Mr. CARTWRIGHT could not agree with the petitioners that the distresses of the country were occasioned by taxation. The taxes which now existed were imposed to enable the country to carry on a just and necessary war. He did not mean to object to the repeal of taxes; but he observed that, within twelve months, 4 millions of taxes had been taken off, without, he feared much benefiting the people; and from this he inferred that taxation was not detrimental to the agricultural interest. He was not at all surprised that the petition had received so many signatures: on the contrary, he was astonished it had not obtained more, because he knew that it had been carried to every market-town in the county for that purpose. He thought it necessary to say a few words with respect to the conduct of the sheriff. A requisition had been presented to the sheriff, signed by 400 farmers, calling upon him to convene a meeting of the nobility, gentry, and clergy, of the county, not only to take into consideration the subject of agricultural distress, but also the question of reform. The sheriff observed, that no gentleman resident in the county had affixed his name to the requisition, and he therefore did not feel himself justified in calling a county meeting.

Sir J. NEWPORT thought the Sheriff had not acted properly in refusing to call a county meeting, merely because no gentleman had signed the requisition. Those persons who were competent to return members to that house, were, in his opinion, competent to call upon the Sheriff to convene a county meeting. He could not have believed that any member of that house would have risen in his place to justify the conduct of a sheriff in refusing to call a county meeting, because the requisition was not signed by what he called "gentlemen."

Mr. COKE observed, that it was country gentlemen like the hon. member for Northamptonshire (Mr. Cartwright) who, by supporting what they were pleased to call just and necessary wars, had brought the country into its present distressed state. The hon. member had chosen his line of conduct, and the freeholders of Northamptonshire, he (Mr. Coke) trusted, would select theirs, and show him that they could put him out of his situation. The country gentlemen had brought the country into its present difficulties, and he thought they were now justly served: he did not pity one of them. (*hear.*) He lamented the situation of the yeomanry, but he believed that the distress which they already felt was only a thousandth part of that which they were yet destined to experience. He trusted that every county in the kingdom would adopt the examples which had been set by the county of Norfolk, of petitioning the house from every hundred.

Mr. CARTWRIGHT was surprised that the hon. member for Norfolk should have travelled out of his way to make a personal attack upon him. He believed that he had pursued as independent a line of conduct in Parliament as the hon. gentleman himself, and he should not be afraid to meet his constituents upon the event of a dissolution of Parliament.

Mr. LEYCESTER thought that the Sheriff of Northamptonshire had exhibited a want of constitutional feeling in refusing to call a meeting of the county.

The petition was then laid upon the table.

Mr. CURTEIS, in presenting a petition from Sussex, entered into a detailed statement of the increase of the poor rates, and the distresses of the people, which we could not hear distinctly. If ministers still doubted the existence and extent of distress, let them visit Sussex and be convinced.

Mr. COKE said he believed the statement of the hon. member to be perfectly correct, and hoped that ministers would turn their attention to the facts brought under their view.

The petition, which complained of agricultural distress, was laid on the table.

Lord BELGRAVE presented a petition from the tobacco manufacturers of Chester, complaining of the high duties on tobacco. Smuggling was increased by the great difference between the value of the article and the amount of the tax. They could purchase tobacco cheaper than they could produce it. If the duty were diminished 2s. in the lb., the article would be brought back to what it had been in 1790, when it had first been brought under the excise by Mr. Pitt. In 1790, the population was 11,000,000, and the consumption of tobacco 18,000,000lb., being 14lb. per head. In 1821, the population was 15,000,000, and if the consumption of tobacco had increased in the same proportion, it would

have yielded last year 2,655,000*l.* to the revenue; but the consumption had in fact been only 12,000,000*lb.*, and yielded but 2,600,000*l.* By the excessive duty, 55,000*l.* were lost last year.

Mr. BRIGHT strongly supported the petition. Smuggling was much increased by the excessive duties. Regular fleets were fitted out for smuggling on the coast of Holland.

Sir JOHN NEWPORT said the revenue on all high-duty goods would be increased by diminishing the duty.

Mr. H. GURNEY made some observations, which we could not hear.

Mr. LUSHINGTON stated that quite the reverse of what had been alleged was the fact. The revenue was increased, and smuggling diminished.

After some inaudible observations by the CHANCELLOR of the EXCHEQUER, the petition was brought up, read, and ordered to be printed.

Mr. CHARLES DUNDAS presented a petition from several parishes in Berkshire.

Mr. GOULBURN postponed the committee on the Irish constables bill to Friday the 21st.

Sir JOHN NEWPORT proposed that the payment of rent (Ireland) bill should be read a third time this day three months which was agreed to.

East India House.—Sugar Question.

A Special General Court of Proprietors of East India Stock was yesterday (June 12) held at the Company's house, in Leadenhall-street, for the purpose of considering a bill now pending in Parliament, for consolidating the several laws relating to the private trade with the East Indies; and also to consider the propriety of concurring in the repeal of the law by which ships under the burden of 350 tons are at present precluded from engaging in such trade from the United Kingdom.

The CHAIRMAN (J. Pattison, Esq.) having stated the business which they were assembled to discuss, the bill in question was read short by the clerk.

The CHAIRMAN then stated, that the Court of Directors had been in correspondence with the Board of Commissioners for the Affairs of India respecting the said bill, which correspondence on the subject which should now be read.

The clerk accordingly read—first, a letter from Mr. T. P. Courtenay, Secretary to the Board of Control, to the Court of Directors, dated India Board, May 3, stating the determination of his Majesty's Ministers to bring in a bill to alter the 53d of Geo. III. They were anxious that the proposition should be laid before the Court of Proprietors, and they were willing to pay due attention to any suggestion which might emanate from that body. The letter then went on to state the desire of Ministers, that the restriction which forbade private vessels of less than 350 tons burden from being employed in the private trade, should be removed. They, however, considered the restriction as one which, though utterly useless, could not be equitably rescinded without the consent of the Court. It was therefore recommended, that they should immediately take the propriety of continuing it into early consideration. Second—A letter to Mr. Courtenay in reply, dated the 23d of May last. In this, the Directors express an opinion, that in the consolidation of the several acts, it was desirable that the bill should be so framed as to remove the existing doubts and difficulties which presented themselves to persons trading under the 33d and 57th of George III. They also pointed out the necessity of introducing some provision to prevent the influx of great numbers of persons to their Indian territories, who proceeded from this country in the capacity of sailors. The Court was not aware that any thing had occurred since the passing of the 53d of the late King, to make that precaution less necessary. Certainly the danger was not less from foreign ships than from those of our own country. They recommended that foreign ships should be obliged to take out a licence, and to proceed direct to some principal port in the Company's territories. The Directors had considered the propriety of continuing the restriction imposed by the act of 1813, with respect to the tonnage of vessels allowed to engage in this trade. They were still inclined to think that that regulation was founded on a good principle, and they were apprehensive lest its removal might be mischievous; but, considering the immense importance of which it was to the traders of the united kingdom, they would convene an early Court of Proprietors, and submit the matter to them for their decision. Here they must insist on the equity of giving to East India built ships the same advantage with respect to registry, as was enjoyed by ships built in other parts of the British empire. They also submitted whether the duty which at present existed on sugar the produce of the East India, ought not to be removed. They wished this point to be brought under the consideration of the Board of Control, because they thought there

was some ground for lowering a duty imposed on one of the few articles of dead weight which were brought home in India ships. Third—A letter from Mr. Courtenay to the Court of Directors, dated the 23d of May. In this letter he stated that he transmitted the draft of a bill, which would without delay be laid before Parliament. With respect to licences, his Majesty's ministers were of opinion, that if persons from the united kingdom, or foreign ports, were obliged to proceed directly to the principal settlements of the Company in India, it would answer all the beneficial purposes of the licensing system. The great delay occasioned, even in England, by the necessary legal forms which licenses required, proved the great inconvenience of adhering to that plan. As the proposition for allowing ships of less than 350 tons burden to proceed to India must be submitted to a Court of Proprietors for their approbation, his Majesty's ministers had not introduced any clause to carry that alteration into effect; but if the proprietors agreed to it, it might be introduced in the progress of the bill. With respect to the request made to grant to India built ships the same advantages as to those which were British-built, his Majesty's ministers adverted to the peculiar state of depression under which the British ship-owner now laboured, had no farther proposition to make respecting India built ships. As to the question respecting the duty on sugar, it had been equally under the consideration of his Majesty's ministers, but though some observations which applied to the state of the shipping interest did not apply to this subject, nevertheless, as the West India colonies were liable to great disadvantages, from which the East India Company was exempt, they could not agree to any alteration of the duty payable on East and West India sugar respectively. Fourth—A letter from the Court of Directors to Mr. Courtenay, dated the 27th of May. In this letter the Directors expressed the gratification they felt in finding that all ships proceeding from the united kingdom, or from any other part of Europe, should go direct from a principal settlement, although at the same time the Court were bound to state that they preferred the form of license. They, however, waived their objection to the original proposition, on the full understanding that regular lists would be delivered when the ships cleared out of port, containing a full description of persons on board. The consuls at foreign ports to transmit such lists to the Court of Directors; and that ships proceeding, in the first instance, to any other but a principal settlement, should take out a special license under the 57th of the late King. The Directors would lay before the proprietors the proposition for allowing ships of less than 350 tons burden to proceed to India; but, in return for this concession, it was demanded that India-built shipping should, on a principle of policy as well as justice, be admitted to equal advantages with British-built shipping. It was not fair that the rights of East India-built shipping should not be defined or understood, while all the trade of India was open to the British shipowner. They against urged this subject on the consideration of the Board of Control, as they were persuaded that the proposition with respect to the alteration of the tonnage restriction would be more easily obtained, if the Court were assured that the privileges of British-built ships would be extended to those built in India. The Court were sorry that Ministers did not see the propriety of removing the existing duty on East India sugar, that being one of the few articles of dead weight which came home in the Company's ships. It was of so much importance, that they pressed on the Court the reconsideration of the subject. Fifth—A letter from Mr. Courtenay to the Directors, dated June 4. In this letter Mr. Courtenay informed the Directors, that in reference to their letter of the 27th ult., he transmitted to them the draft of a bill for the further regulation of the trade of India. Some of the suggestions of the Court of Directors had been attended to; but on others the board were not prepared to give any answer, save what was contained in his letter of the 23d ult. At the present late period of the session, it was necessary to bring in the bill as soon as possible in that shape in which it was hoped it would be agreed to.

The CHAIRMAN said, he had hoped that the business would have been in such progress to-day as to have enabled the Court to take into general consideration what had been proposed; but circumstances had occurred, which gave the Court of Directors reason to believe that some modification of the law would take place, which would render it inexpedient to come to any decision on the subject at present. The Directors also understood, that it was very much the wish of gentlemen who were interested in this question that it should not be pressed to a decision this day; but that the papers should be laid before the Proprietors, and the discussion on the subject deferred. There would be on Wednesday next a Quarterly General Court, which might be made special for that purpose. In the mean time, the objections of the Court of Directors to the provisions of that bill, though not in the shape of correspondence, would be continued. There was an omission of certain prohibitory restrictions, contained in the 10th, and in the 17th, 18th, and 19th sections of the 53d of Geo. III., which essentially altered the position of the trade. The removal of these provisions threw the trade open to every part of the united kingdom whether those who embarked in it were, or were not, furnished with proper basins and warehouses. They might bring the goods for sale to any port, for the purpose of home consumption—a privilege which was now confined to that house. Between this

and Wednesday next, it would probably be in their power to consider the subject. The safest course, he thought, would be to adjourn the discussion till Wednesday; but he would not, by any means, preclude gentlemen from delivering their opinions at the present moment upon the general subject.

Mr. C. FORBES said, this was the time when every man who had the interest of India at heart ought to stand forward, and never slacken his exertions till he had effectually secured that interest. He agreed in the propriety of what had fallen from the hon. Chairman; but he must observe, that in the interim between this and Wednesday next, it would be advisable to submit the papers to a select committee of Proprietors. (hear.) That committee could go fully into the subject, and make such a report as appeared to them to be necessary. Since the papers had been read, he was more satisfied than he had ever been, that it was the intention of his Majesty's Government, supported by the legislature, to crush the East India interest, by giving an undue preference to that of the West Indies. (hear, hear.) It was impossible they could shut their eyes from the general inference which must be drawn from the correspondence that had been laid before them. The modifications that had been made in the bill were mere verbal alterations of no importance. They did not at all affect the principle of the measure. Every person connected with India must feel the most serious objections to a measure which gave a free admission, in every possible way, to those who wished to trade with India, while it conferred no reciprocal advantages on those at whose expense the boon was conferred. Why should there be a refusal to India-built shipping, of that general benefit which British-built shipping enjoyed? No person who knew the sentiments he had held for the last ten years, on the subject of a free trade with India, could suppose that he entertained feelings hostile to the principles of free trade generally. He was, on the contrary, a decided friend to a free trade. But he did not understand that description of free trade which gave all the advantages to one side, and all the disadvantages to the other. The shipping interest of this country were admitted freely to the East Indies; they were most properly allowed to carry out the manufactures and produce of this country. But what return did the East India interest receive? Why, heavy duties had been placed on East India produce. The duty on cotton had, during the last 12 months, been reduced; but still the duty on that article was greater than it ought to be with reference to what was charged upon American cotton. With respect to East India sugar, which formed a considerable portion of the export from India, the duty and regulations connected with the commodity, operated, he conceived, at that moment, as a prohibition to its sale in the home market. He understood that within these few days a regulation was adopted at the Custom-house, by which all East India sugars were in future to be considered as clayed sugars, and were to be charged accordingly. The consequence of such proceedings must be to knock up entirely the trade between the East Indies and this country, in sugars and cottons. The consequence of this impolitic system, then must be to injure very considerably the India market for British manufactures. In speaking thus in favour of the East India interest, he was not actuated by any comity to the interest of the West India and merchant. He did not call for any boon or favour on the part of the East India interest. All he demanded was strict justice. In fairness, he thought the duty on East India sugar ought, if not entirely removed, to be partially removed next year. It was infamous and shameful, that this new regulation, denominating East India sugar clayed sugar, should be enforced. He hoped the Bill would not be allowed to pass this session. He trusted that the Court would come to a solemn protest against such precipitancy. The Court of Directors ought to try what could be effected by the weight of interest and the talent they possessed, and he was sure the Court of Directors would give them that support which they deserved. This measure, it should be recollected, did not merely affect the Company as merchants and traders—no, it affected the interests of 100,000,000 of their Indian subjects. It was in the capacity of sovereigns of India, that he called on the company to stand forward and protect their subjects. The honourable gentleman then proceeded to lament that the East India interest, in the House of Commons was less powerful than that of the West India merchants. Any proposition made to the advantage of the latter was sure to be listened to by the minister. They had meetings out of the House of Commons as well as in it; they settled their measures very secretly; so secretly, that the East India interest frequently knew nothing about them, until they appeared in the shape of a bill or a resolution. The East India interest, he repeated, was not properly represented in the House of Commons, and he hoped they would all see the necessity of acquiring strength in that house. When he saw how many men, both before and behind the bar, were, from their wealth and talents, entitled to seats in Parliament, he thought that they ought to acquire them. It was the bounden duty of that Court and of the Court of Directors to strengthen the Parliamentary weight of the East India interest. It might, perhaps, be considered a very severe qualification, if the Directors were called upon to fill seats in Parliament. (hear, hear.) He was sure, however, that it would be very good policy, and he thought if the proprietors were asked to assist in enabling the Directors to sit in

Parliament, it would not be found any great burden. (hear, and a laugh.) It was said that India built shipping could not be allowed the same advantage as British-built shipping, on account of the depressed situation of the British-ship-owner. But was there no pressure on the Indian ship-owner? They all must be aware that the shipping of India never was so low. There was no less than 40,000 tons of shipping lying unemployed in Bengal; and a great quantity was also lying useless at Bombay; not a word was said about that shipping which was rotting. When Government came forward for the purpose of giving a boon to the ship-owners, it was the duty of the Company to come forward and say, "Give us not a boon, but give us justice." They ought not only to say that, but to insist on it: and if they insisted on it, they would be sure to accomplish their object. (hear.)

Mr. CARRUTHERS would not allow the assertion of the hon. gentleman, that the intention of the legislature was to support one class of persons at the expense of another, to go fourth uncontradicted. Ministers, he was sure, meant to act fairly to all parties.

Mr. D. ROBERTSON contended, that it was the duty of this country to protect its commerce and manufactures. If recourse were not had to a proper degree of protection, it would be impossible, considering the high wages which were paid here, and the liberal manner in which the manufacturing classes were clothed and fed, for Great Britain to compete with Continental States, where the wages were low, and food given in very sparing quantities. The honourable gentleman then proceeded to point out the great advantages that would be derived from a commercial intercourse with the newly emancipated South American States; and he also adverted to the benefits which would accrue from opening the China trade, so as to give us an opportunity of forming commercial relations with Cochin, Siam, Tonquin, and the Birman empire.

Mr. S. DIXON suggested the propriety of adjourning the debate, and in the mean time of having the correspondence between the Board of Control and the Court of Directors printed for the use of the Proprietors. One honourable gentleman (Mr. Forbes) had told them, that the Company were not properly represented in Parliament and he recommended that the 24 Directors should have seats in the House of Commons. This put him in mind of a line of an old song, "Four-and-twenty Directors all on a row!" And for what purpose were they to be sent to Parliament? To neglect their duty to the community at large, for the purpose of supporting one interest against all the rest. But he must enter his protest against leaving the interest of the Company in the House of Commons entirely to the Directors. He should like that some of their representatives should be taken from before the bar. In that case, as he had nothing at all to do, (and the Directors, he it observed, had a great deal of business to perform), he would come forward as a candidate for one of the vacant seats. (a laugh.)

Mr. RICARDO said the honourable gentleman had described very justly the duty of a member of the House of Commons, who ought to attend to the public interest alone, and not be swayed by any bias for the particular interest of East India or West India merchants. He knew this ought to be the rule of conduct in Parliament; but that man must be blind who supposed that the House of Commons performed their duty in the immaculate manner which the honourable gentleman had pointed out. The honourable gentleman (Mr. Robertson) had condemned a free trade with European countries. If that were the question before the Court, he would be ready to argue it with him. But the question was not as to the propriety of allowing the French or Spaniards to enter into this trade. It was a question, in which the interests of England alone were concerned. The honourable gentleman who opened the debate, said that he asked only for equity—he asked to be put on the same footing as the West India merchant. In the propriety of that view, he (Mr. Ricardo) concurred; and, if he wanted to prove its truth, and to show the benefits which resulted from a free trade, he would appeal to the speech of the hon. gent (Mr. Robertson.) He had, in the course of his speech, said, that, by taking off restrictions, the trade to the Brazils and to the South American colonies had flourished. He had, therefore, himself pronounced the warmest eulogium on unrestricted trade. They could not have a flourishing trade if they placed restrictions on the commodities of the country with which they required commercial intercourse. (hear, hear.) They could not expect to dispose of their goods in India without taking what India had to give in return. (hear.) He had no hostility to the West India interest. On the contrary, he participated in the feelings of regret which their sufferings were calculated to produce. If he could give them relief without injuring others, he would do so; but at the expense of others he never could administer it. (hear, hear.) Buying their sugars at an advanced price was not the only disadvantage the country suffered from this system. The evil was much greater; and for his own part he would give up the difference of price between the East India and the West India sugar, in the shape of a gratuity, rather than this privilege should be given to the West India interest.

Mr. TUCKER complimented the Directors on having made a manly stand on this occasion, at the same time he was sorry it was not a little more energetic with respect to one point—he meant the duty on sugar. His great wish was, that every exertion should be made to introduce the produce of India into this country. The British consumer, the merchants agent, and others, who were directly employed in the trade, the British manufacturer, were all deeply interested in the removal of the tax from East India sugar, which now paid a duty of 200 per cent. The British manufacturer could not receive the sugar of the natives of India, for his goods, when it was loaded with such an impost as rendered it unsaleable at home; and therefore his goods remained on his hand. Was it not then plain, that this operated as tax of 200l. per cent. upon British manufactures?

Mr. LOWNDES argued that the claim of the East India interest was superior to that of the West India merchant; because our East India trade was recognized in Elizabeth's reign; whereas the West India trade was not known until Cromwell's time. The Company, having the priority, their claim was the more powerful.

Mr. MACAULEY concurred in the propriety of adjourning the debate, and printing the papers for the use of the Proprietors. He wished the Directors, when they brought them forward, had accompanied those papers with their own report on the subject. Whatever relief the situation of the West India merchant might require, ought not, certainly, to be taken from the population of India.

After a few words from Mr. TRANT and Mr. A. ROBERTSON, the question of adjournment until Wednesday next was carried unanimously.

The King's Levee.

Yesterday (June 12), his Majesty's held a levee at his palace in Pall-mall, which was very numerously attended. There were upwards of 1,000 persons present.

A detachment of the Royal Horse guards marched to Waterloo-place, preceded by their numerous band of twenty-four performers, with kettle and long drums, in their state uniforms; also the King's Guard, under the command of Colonel Mackinnon, preceded by their band in their state uniforms, who played alternately with that of the Royal Horseguards.

On his Majesty leaving his private apartments for the state, Col. Bonnerie, the field-officer in waiting, made a report of the effective state of the three regiments of Foot Guards.

His Royal Highness the Prince of Denmark was introduced to his Majesty agreeably to Court etiquette, in his Majesty's closet, by his Royal Highness the Duke of York.

Baron Pagel, the Ambassador from the Netherlands, had an audience of the King to deliver a letter from his Sovereign.

Lieutenant-Colonel Don Francisco de Siera was presented by the Spanish Minister. Mr. Washington Irving was presented by the American Minister. Mr. de Moraes Sarmiento, the new Chargé d' Affaires from Portugal, was presented in the circle by the Marquis of Londonderry; and his Portuguese Majesty's former Chargé d' Affaires, Mr. d' Oliveira, took leave of the King. The Baron Quintello was presented to his Majesty by Baron Moraes Sarmiento, the Portuguese Chargé d' Affaires. The following were presented to the King by the French Ambassador, in circles:—The Duke de Guiche, Le Comte D'Hosenville, Baron de Stael, Count D'Orsay, Count de Boissy, Chevalier Desmoyffeani de Givre.

His Majesty gave closet audiences to Mr. Peel, the Marquis of Londonderry, the Duke of Montrose, Viscount Melville, and the Duke of Buckingham. Besides the Foreign Ambassadors and Ministers, the Cabinet Ministers, the Great Officers of State, and the following, were among the distinguished characters present:—The French Ambassador came in state with his Excellency's suite in three carriages. The other foreign Ambassadors and Ministers besides those above noticed, were the Austrian, Swedish, Danish, Sardinian, Neapolitan, Bavarian, Hesse, and Baden; Mr. J. Colquhoun, the Consul-General for the Hanse Town; Lopez da Cunha, the Portuguese Consul; Mr. J. B. Heath, Sardinian Consul-general; the Archbishop of Canterbury, the Archbishop of Dublin, the Bishop of Landaff; the Vice-Chancellor; the Judge of the Arches' Court; the Prince Esterhazy, the Prince Las Kowitz.

Dukes—Grafton, Wellington, Montrose, Buckingham, Beaufort, Dorset, Argyle.

Marquises—Winchester, Exeter, Downshire, Anglesea, Londonderry, Graham, Cholmondeley, Cornwallis, Conyngham, Worcester, Bath.

Earls—Chichester, Ancom, Carnarvon, Verulam, Strathmore, Belmore, Clanwilliam, Darnley, Darlington, Lonsdale, Caledon, Enniskillen, Brownlow, Elgin, Cork, Denbigh, Cavan, Abingdon, Mount Edgemoor, Blessington, Lennox, Melville, Egremont, Bathurst, Winchester, Macclesfield, Rocksavage, Cathcart, Wemyss, Westmorland, Lauderdale, Harrowby, Yarmouth, Wilton, Ashburnham, Glasgow, Rochfort, Gower, Stamford, Ludlow.

Viscounts—Deerhurst, Gage, Newport, Ennismore, Stopford, Ebrington, Eastnor, Douglas, Maynard, Melville, Sidmouth, Morpeth, Grey.

Lords—Henniker, Dralington, Willoughby de Broke, Dynevor, Clifton, Sandon, Dunsmuir, Mark Kerr, Ducie, Northwick, Clonbrook, Roile, Henry Wynne, R. N., Ashtown, Dundas, Montagu, Bagot, Teigumouth Stourton, G. Bentinck, Colchester, Gwydyr, G. Beresford, Calthorpe, Ravensworth, Lowther, Charles, Bentinck, Boston, Stewart, Barchers, Holland, James Murray, Eastner, W. Bentinck, Redesdale, Kenyon, Rivers, Combermere, Graves, St. Asaph, Grantham, F. Bentinck, Robert Manners Kensington, Rous, Howden, Dunstanville.

Right Honourables—Sir John Nicholl, Wm. Bagwell, C. Grant, Robert Peel, W. Huskisson, W. H. Freemantle, N. Vansittart.

Sirs—J. Astley, N. C. Colthurst, A. Chichester, A. Don, C. Hawkins, C. Hunter, W. Lemon, H. Palliser, T. Freemantle, R. Chester, H. Torrens, W. Congreve, W. A'Court.

Bishops—Clonfert, Landaff, London, Lincoln.

Deans—Rochester, Salisbury, Carlisle.

Rev. Doctors—Symonds, Pearson, Gray, Sleath, Blomberg, Rudge, Fynes, Clinton.

Barons—Sternhold, Langsdoff, Quentelli.

Counts—Woronow, Lieven, Munster, Ludolf, Leto.

Admirals—Sir J. Hawkins Whitshed, Sir F. Laforey, Eyles, Page, Sir Thomas Williams, Sotheby, Glynn, Sir R. Keats, Sir R. King, Markham, West, Sir H. Bayntun, Sir I. Coffin, Sir J. Webb, K. G. B., Sir G. Martin, Sir E. Nagle, Sotheron.

Generals—Sir H. Torrens, Sir Rufane Donkin, Burr, Lord Blayney, Young, R. A. Church, Darby, Griffith, Kerr, Sir J. Dallas, K. C. B., Ramsay, De Batts, R. E., Sir J. Lyon, Ross, Orde, Loftus, Glen, Sir J. Malcolm, G. C. B., J. Michel, Sir H. Lowe, B. Reynardson, Fraser, St. George, Sir M. Nightingall, Aylmer, Huskisson, Sir R. O'Callaghan, O'Loghlin, Douglas, T. Widdington, Sir C. Imhoff, Hart, Sir E. Stoford, Sir R. Macfarlane, Sir J. Cameron, K. C. B., Sir W. Kier Grant, Sir W. Cockburn, Bart Sir J. Murray, Bart., Sir J. Keane, Milner, Walker, N. Halford, Earl Ludlow, Earl Donoughmore, Sir T. Hislop, Lyon, Grovenor, Finch.

The following were among the presentations:—

Mr. Rae Wilson, on his return from Jerusalem.

Dr. Richardson, author of Travels along the Mediterranean.

Viscount Grey.

Lieut. General Church, upon his arrival in England, who received the honour of knighthood.

Major Baron Schmiedern, on being appointed a Knight of the Royal Guelphic Order.

Sir John Croft, Bart., on permission to accept the Royal Portuguese Order of the Tower and Sword.

Sir Edward Hyde East, late Chief Justice at Calcutta.

Mr. Denman, on being elected Common Sergeant of London.

Sir Thomas Fremantle, on being created a Baronet, and receiving his Majesty's permission to use the title and arms of a Baron of Austria.

Earl of Leonex Melville, on coming to his title.

Vice-Admiral Sir Richard Keats, on his appointment as Governor of Greenwich Hospital.

Major-General Sir John Malcolm, G. C. B., on his return from India.

Major-General Sir Hudson Lowe, on his appointment to the command of the 93d Regiment.

Major-General Sir John Cameron, K. C. B., on being invested with the ensigns of a Knight Commander of the Bath.

Mr. Bishop, to present his music in the "Law of Java," dedicated, by permission, to his Majesty.

Lord Henniker, on taking the surname of Major.

Mr. Charles Gardiner, late Military Secretary to the Bengal Government, on his return from India.

Earl of Denbigh, on his marriage.

Mr. S. P. Williams, M. P.

Mr. Henry Mash, on his appointment of Gentleman Usher of the Privy Chamber to his Majesty.

Lieut. James Bissett, Madras Army.

Dr Woods Madras Army.

Captain Crossley, Bengal Army.

Captain Macdonald, 92d Highlanders, on his appointment as Military Secretary to the Duke of Manchester, Governor of Jamaica.

ASIATIC DEPARTMENT.

—233—

Proprietors of John Bull.

By following the excellent rule alluded to on Saturday, we trust we shall come to a close at last. The BULL of that day has the following acknowledgement respecting its Proprietors.

"Undoubtedly, like all other men of principle, they would not allow their Paper to be subservient to the promulgation of principles directly opposed to their sense of good Government and Social Order."

Very well.—They have allowed their Paper to be the vehicle of an Anonymous Slander, branding a known Individual with the commission of all sorts of crimes. They have had their attention pointedly called to the infamy of this Slander, and they still see their Paper made subservient to the same purpose. This then is quite consistent with their notions of good Government and Social Order; and we are forced to conclude, by this avowal, that Social Order with them is not at all disturbed by an Anonymous Slanderer singling out an Individual who for four years has enjoyed the respect and esteem of the Society in which he lives, who is privately at war with no man, while he enjoys domestic peace in the bosom of his family, and denouncing this Individual as a Monster of Iniquity, whom all honest men ought to shun!—If this be their idea of Social Order, the Public know what they have to expect

Again, the BULL of Saturday says,—

"We shall just observe that the Letter signed 'A FRIEND OF MR. BANKES' has nothing to do with the present matter, which is simply the false accusations brought against the Proprietors of the BULL."

On the other hand, we say that this Letter is *every thing* in the present matter: for it is on this that the first question of the responsibility of the Proprietors was originally founded; and it is on their refusing or neglecting to shew their public disapprobation of it, that the charge against them is still maintained. Besides, will it be tolerated that an unsupported charge accusing a man by name of crimes that should unfit him for society, shall be counted for *nothing*—while an accusation of hostility, that needs no other proof but this one act, tho' every Number of their Paper abounds with proofs if we needed them, is to be made *every thing*? The Public will laugh such a distinction to scorn.

Opinions of the Asiatic Journal.

The ASIATIC JOURNAL for June last, contains a full Report of the Proceedings against the Editor of the CALCUTTA JOURNAL, on Filing the Criminal Information in November 1821, re-printed from our pages, with some remarkable omissions. The merits of the question then argued have long since been settled, and we have no desire to disturb the judgment which both the Law and Public Opinion have long since pronounced on the whole subject then at issue. The Introductory Article with which the Editor of the ASIATIC JOURNAL has thought fit to preface the re-publication of the Report, is, however, altogether so curious, that we have determined to give it a place in our Asiatic Department, for the sake of appending a few notes at the foot of it, in order that some of his Friends in Leadenhall-street may see that the Honorable East India Company's Publishers can be sometimes as much in error and quite as biassed and partial in their views and conduct as other men, who have no such high sounding patronage to blazon forth in the front of their humbler pages. We give the Introductory article as a text, the Notes on which will be found below. It is as follows:—

CRIMINAL INFORMATION AGAINST THE EDITOR OF THE CALCUTTA JOURNAL.

In bringing this subject before our readers, we think it right to avail ourselves of the opportunity of making a few remarks on the general question, as well as the particular case; for though we have admitted into our pages many communications relating to the state of the Indian press, we have hitherto

for reasons unnecessary to detail, abstained from entering personally into the discussion. If we forbore much longer, we might possibly be charged with a pusillanimous dereliction of professional duty.

We avow ourselves advocates for freedom of discussion: what rational man is not? We look upon it as the privilege of every thinking being, to be restrained or taken away only on the most solemn grounds of national policy. Science and philosophy, liberty and religion, depend upon its existence, grow with its growth, and sicken on its interruption.

"Our constitution, in fact, as it at present exists, in a church reformed from the errors of superstition, and in a system of liberty equally remote from feudal anarchy and monarchical despotism, is almost entirely, under Providence, the fruit of a free press. It was this which awakened the minds of men from that apathy, in which ignorance of their rights, and of the duties of their rulers, had left them. It was by these means that moral and religious knowledge, the foundation of all liberty, was refracted, multiplied, and circulated; and instead of existing in masses, and in the single points of schools and universities, was rendered the common atmosphere in which we all live and breathe."—*Holt on Libel*, p. 52.

Though such are our feelings, and we glory in avowing them, it is not without pain and alarm that we contemplate the advance which in latter times has been made from freedom to licentiousness: from candid, temperate, and liberal remark, to the language of GROSS SCURRILITY AND VULGAR ABUSE. (1) It is not without poignant sensations that we have seen the polished weapons of literary and political hostility exchanged for THE DAGGER OF ANONYMOUS SLANDER; (2) and have beheld the controversies of public life, warm into domestic broils and personal contention. Where is this to terminate? and, while it lasts, who is safe? Even in the horrors of civil warfare, not all the courtesies of society are lost. Though father is armed against son, and brother opposed to brother, yet the DOMESTIC ALTARS are respected, and the reserves of FEMALE DELICACY remain sacred from the public gaze. (3) But

NOTES.

(1) To which of the Calcutta Papers, the charge of "gross scurrility and vulgar abuse" most fitly applies, it is quite unnecessary at this time of day for us to say; but no impartial and unbiassed person, desirous of rendering strict justice between man and man, could, after reading the Report of the Trial which this article precedes, supposing they had never heard of either of the Papers then spoken of before, come to any other conclusion than that "gross scurrility and abuse" was less imputable to the CALCUTTA JOURNAL, than to either of the other two Papers then opposed to it.

(2) Who has had recourse to the "dagger of anonymous slander," most frequently, the Indian Public also know sufficiently already; but if the matter were ever before doubtful—the recent publication, without remark, apology, explanation, or disavowal of the "anonymous slander," contained in the Letter signed "A FRIEND TO MR. BANKES," must settle that question for ever, and prove that neither the Editor, Proprietors, nor Contributors of that Paper have yet shewn among the whole of their collective body either sufficient virtue to be ashamed of using such a dagger, or sufficient honesty to avow that shame if it be really felt; so that the Public have the fairest grounds to infer that there is not any among them all who so heartily and thoroughly disapprove of it as to think it of sufficient consequence to exempt themselves, by disavowal, from their share of the general odium and discredit which it cannot fail to attach to the Paper itself.

(3) At every step, we find features and lineaments which when put together form an accurate portrait of that very Press which was set up to please the Orderly and Pious, to curb Licentiousness, and promote the reign of Social Order. We again ask. By whom have the "domestic altars" been invaded? and who has violated the reserve which should have kept "female delicacy sacred from the public gaze?" All who remember the offensive mention of the "Fair Radicals" who were dragged before the Public some months ago: all who recollect the more recent and equally unwarrantable statement of a certain Editor having imported from England a Carriage and a Female Friend to take notes of the conduct of the Ladies on the Course: all whose ears still retain the sound of the general indignation expressed at anonymously denouncing a man as the most unprincipled of adventurers, and guilty of crimes which would make every honorable mind shudder. All who remember these things (and they include nearly every Eng-

here we have a worse than civil war; more horrible in its circumstances, more extensive and more permanent in its consequences: malignity no longer hides its head; personal enmity no longer spits its venom from a lurking-place; and the daily press affords an easy means of gratification to the most diabolical of human passions.

We loathe the Bulls, the Chronicles, the Liberals and Anti-Liberals of the day. We care not where the evil begins; we care not with whom it rests; we care not for what objects, on what principles, or by what persons the system is carried on: we will raise our humble voice against it, and trust ere long the united and irresistible indignation of an insulted public will sweep the miscreants out of existence. (4)

If the case of Mr. Buckingham excites the same train of reflections in the minds of our readers, as it has done in our own, they will pardon us for the preceding observations, suggested not alone by this particular case, but by the general system of which it is an example. They will participate in the regret with which we have witnessed the ramification of that system in our Eastern territories.

Though both parties in the following case come within the scope of our remarks, there are certain points in which Mr. Buckingham, and that political party to which he belongs, more particularly deserve the reprobation of all honest and loyal men. Let it not be supposed that we are launching into the sea of politics, or about to make our Journal the vehicle for party disquisition; but we have already said, that on a question which has obviously stirred up in an unusual degree the feelings of the European Residents in India, and even excited no trifling interest at home, it would appear weak, if not criminal, to withhold the expression of our sentiments: we therefore proceed.

It has only of late years been attempted, even by the most audacious, to intimidate and browbeat the Judges and Juries of our country. But within a very recent period, we have seen our highest and most august tribunal outraged with insult, and libelled with impunity. We have seen the Judges and Magistrates of the land pointed at as objects for public odium; as fit subjects for popular violence! We have seen our Jurymen designated by name, and advertised in our newspapers, in anticipation of that verdict which a guilty conscience knows must be pronounced!

All the resources of a public and powerful press have been adopted to run down the men by whom truth is to be ascertained and justice must be administered.

If we, in England, have sustained without material injury, this attack on our best and dearest privileges, if the stream of justice still flows pure, notwithstanding all attempts to pollute its fountain, we owe it to causes peculiar to ourselves, and to that Constitution of which we justly boast; but certain we are that in Europe, or in the world, there exists not another Government that would not be endangered by such a state of things, and least of all that Government under which our Oriental affairs are administered. "It may and must be true," says Erskine, in the defence of Stockdale, "that Mr. Hastings has repeatedly offended against the rights and privileges of Asiatic Government, if he was the faithful viceroy of an empire, wrested in blood from the people to whom God and nature had given it. He may and must have preserved that unjust dominion over timorous and abject nations by a terrifying, over-bearing, insulting superiority, if he was the faithful administrator of your government; which having no root in

lishman in India) will decide to whom the charge of invading the domestic altars, wounding female delicacy and violating the sanctity of private life most strictly applies.

(4) We trust so too:—and for the honor of our country, both in the eyes of the Natives, of Foreigners, and of our Friends at Home, we would hope that the British community of India will still continue as they have done to mark, by the most unequivocal of all testimonies, the extent of their unsought support, to which species of conduct in the management of the Public Press they yield their most cordial approbation; and of which, by the same token, they most pointedly express their contempt.

consent or affection, no foundation in similarity of interests, nor support from any one principle which cements men together in society, could only upheld by ALTERNATE STRATAGEM AND FORCE. The unhappy people of India, feeble and effeminate as they are from the softness of their climate and subdued and broken as they have been by the knavery and strength of civilization, still occasionally start up in all the vigour and intelligence of insulted nature. To be governed at all, they must be governed by a rod of iron; and our Empire in the East would long since have been lost to Great Britain, if civil skill and military prowess had not united their efforts to support an authority, which HEAVEN NEVER GAVE, BY MEANS WHICH IT NEVER CAN SANCTION."

If the above passage had any foundation in truth, and though the feelings of the Advocate are more apparent than the cool judgement of the Statesman, yet, allowing for the colouring of eloquence **WE BELIEVE IT TO CONTAIN MUCH THAT IS CORRECT**, what shall we think of those who would throw contempt on the public officers, and assault the infant institutions of the Asiatic territory? (5)

(5) The quotation from Mr. Erskine, had it stood alone, might have been considered merely as the exaggerated picture of an avowed advocate of a particular cause; but when the Editor of the ASIATIC JOURNAL, published by the Booksellers of the Honorable East India Company in Leaden-hall Street, asserts that allowing for the colouring of eloquence only he believes much of it to be correct, what are we to say of Libels on the Government of India generally? We were indicted for daring to admit a Letter which only went to suppose that the Secretaries of this Government were very much like the Secretaries of every other, or at least not exempt from the common failings incident to all possessors of influence and power even in the best governed countries on earth.* But here is a man who quotes a passage (and adds that he deems much of it correct) which represents the Indian Empire as founded on unjust dominion and supported by alternate stratagem and force, and calls the authority by which it governs, an authority which heaven never gave and supported only by means which heaven can never sanction!! This precious publication has been in India several weeks (though we have only had our own copy a few days), yet the pretended enemies of a Licensious Press are all silent on this enormity. Where are the leading Members of the Civil and Military Service of India—the Clergy—the Judges of the Land—the Magistracy—the Functionaries of every class and description,—that they do not rise up to repel this libellous aspersion on their whole body, which the ASIATIC JOURNAL has made its own by avowing his belief that much of it is correct? If he believed any portion of it to be true, he ought as an Englishman and an honest man to wish to see it altered, and himself join with heart and hand to assault and overthrow all and every Institution which he considered founded in injustice, supported by fraud and force, maintained by a rod of iron, and by means that heaven could never sanction! Where also are those leading Friends of good Government, who profess that their only object in opposing us, is to counteract the evil tendency of our endeavours to bring the Government of India into contempt? Have we ever said a thousandth part of what the Editor of the ASIATIC JOURNAL says he believes to be in most of its parts correct? Yet for us, no language is too violent; while this Leadenhall-street Oracle, who makes the alleged iniquity and injustice of the Indian Government a principal reason for the danger of attempting to throw contempt on public officers, and assaulting the infant institutions of India, is suffered to remain untouched without a single voice raised in reprobation of his writings. We say, with the venerable Head of the Government himself, that "if our motives of action are worthy, it must be wise to make them known

* Even so vain and thin-skinned a man as James the First, would not have looked upon SAM SOBERSIDES' truism as a Libel, though divested of its IF, according to Sir Walter Scott's picture of that Monarch's mind: for in *The Fortunes of Nigel*, Vol. I, p. 245, we find the following passage in an interview between Lord Nigel and the King, evidently intended by the Tory Baronet as a picture of Secretaries in every age and in every country.

Nigel is represented as presenting a Supplication with his own hands, to the King, who exclaims.

"To our Secretary with that gear, my lord,—to our Secretary with that gear."

"I have already offered my humble Supplication to your Majesty's Secretary of State," said Lord Glenvarloch—"but it seems——"

"That he would not receive it, I warrant?" said the King, interrupting him;—"by my saul, our Secretary kens that point of king-craft—called refusing, better than we do, AND WILL LOOK AT NOTHING BUT WHAT HE LIKES HIMSELF——"

"As the magistrate," says the learned author, whose work on libel we have already quoted, "is the servant of the law, and the officer of its administration and execution, it peculiarly becomes the law to support itself in the safety and due honour of the persons of its ministers. Every system of law, therefore, has always regarded slander and libel against magistrates, as more immediately directed against its own authority."—*Holt, on Libel*, p. 169. Such however is the character of that offence for which Mr. Buckingham has fallen under the cognizance of the Supreme Court at Calcutta.

Availing himself of the newly-acquired LIBERTY OF THE PRESS, (6) he appears to have published in his Journal a series of libels on the public functionaries and the Juries of Calcutta; and for these libels the Advocate-General, in the discharge of his official duty, applied to the Supreme Court for leave to file a criminal information against him. The application was resisted on the grounds that the Court had no jurisdiction to authorise such a proceeding; that the passages complained of were not libellous, and lastly, that the parties aggrieved by the alleged libels did not negative the charges against them by affidavit.

Those who may want patience or inclination to wade through the report we have extracted, at full length, from Mr. Buckingham's own pages, the CALCUTTA JOURNAL, will thank us for informing them briefly by what arguments this application was successfully supported.

With respect to the jurisdiction of the Court, it was contended that the Act of the 13th Geo. III. c. 13, empowered the King to erect a Court at Calcutta, to exercise all civil and criminal jurisdiction, &c. and to do all things necessary for the administration of justice; that by the charter granted to the Company, in pursuance of this Act, it was provided that the Justices of the Supreme Court at Calcutta should have such powers as the Justices of the Court of King's Bench, one of which powers, by the Common Law of England, and recognised by the 35th of William and Mary, c. 18, was that of exhibiting criminal informations.

We may be permitted on this point to observe, that the argument to the Jurisdiction appears to have been most unnecessarily, we might say ostentatiously, extended by the defendant's counsel, and treated by the Court with far more consideration

throughout an Empire, our hold on which is Opinion"—We say that the general principle of the British rule in India is an avowed desire to make the Government of the Country a Government of Law and not of arbitrary or Despotism, to reign in justice and equity over all classes, and to give to the subjects of our rule a security and protection in their lives and property which they never enjoyed under their Native Chiefs. We desire to see this admirable principle every where reduced to practice; and it is because we believe that the major part of the Public Functionaries of India desire it also, that we never could perceive any danger to the State in having every Institution publicly canvassed, every man's public duties publicly commented on, and every law, regulation, and practice in the country submitted to the test of that "Public Scrutiny" which the Highest Authority in the Land has pronounced to be salutary in its influence on all men, even when their intentions are most pure. An Empire founded in blood, maintained in injustice and devoted only to purposes disapproved by heaven, might indeed soon be shaken to its foundation by such a Scrutiny; and all those who were agents in the fraud and force necessary for its maintenance might tremble for the safety of the Institutions they uphold—But Justice cannot suffer by publicity. Truth cannot be ashamed of examination. Equity cannot dread being canvassed:—and it is therefore that we are constrained to say, the Enemies of a Free Press in India are those who most deeply libel its Government: and contribute to keep up the delusion still prevailing at home, and which this ASIATIC JOURNAL of all other publications should be the last to countenance, namely, the belief that the whole system of our Indian Rule is bottomed on Fraud, Tyranny, and Corruption, and therefore will not bear examination; while on the contrary, the Advocates of a Free Press shew their confidence in the justice of our dominion generally, by their readiness to submit all its details to that Public Scrutiny which none but those whose deeds are dishonorable could ever wish to shun, or ever have cause to dread.

(6.) In England, then, they still think that we have really acquired and fully enjoy the Liberty of the Press: They could not of course anticipate that the legal remedy of a Trial by Jury would again be abandoned for any more summary mode of proceeding.

that it merited. Most unquestionably the right of filing informations by its officers, is by Common Law inherent in the Court of King's Bench, and consequently in every Court invested with similar powers.

It is observed by Lord Mansfield, "that informations neither derived their being nor their form of proceeding from the Star Chamber, but from the Common Law of the land, and the usage and practice of the King's Bench where they were exhibited."—*Vide Wilkes's Case*, Burr. 2,527.

But to return to our Report. It was contended further, that the charges made by Mr. Buckingham were of too general and sweeping a character to admit of being rebutted by affidavit.

On the remaining objection, it was decided, by a majority of the Court, that the offensive passages were of a nature to call for its intervention in the summary manner desired.

It is certainly a curious feature in this case, that the Bench should have been divided in opinion, not only on the law, but the merits. For ourselves we must say, that in both respects we are quite unable to find a pretext for hesitation, unless it is that offences of a similar description, but of a yet more atrocious character, have with ourselves passed *sub silentio*.

If such a feeling swayed the mind of the dissentient Judge, we agree with one of the learned Counsel, that in England and in India libels ought to be graduated on a different scale.

Most heartily do we wish it were otherwise, and that it were as difficult within the shores of Britain, as of India, for traitors and blasphemers to vend their accursed wares with profit and impunity.

We cannot close our remarks, tedious though we fear they are, without observing on the GARBLED STATE OF THAT REPORT with which Mr. Buckingham has filled his pages. It is indeed pretty obvious that *his* Counsel have REVISED THEIR SPEECHES. For their own sakes, as we have hinted, they would have acted more wisely to have abridged them to one-fourth part of their present length. They are overloaded with a dull, *prolix display of argument*, not less useless than pedantic. (7) But we suspect Mr. Buckingham of another motive: men of his description are WONDERFULLY APPREHENSIVE OF AN IMPARTIAL UNBIASED JURY: (8)

(7) On the charge of having sent out to the world a garbled Report of the Proceedings in the Court, we must say. First, As the Editor of the ASIATIC JOURNAL was not present to know what actually transpired, it is impossible that he should be able of himself to decide whether we had purposely omitted any thing or not, even supposing that to have been actually the case. Secondly, There were hundreds of living witnesses in the Court during the whole of the Proceedings who would have been able and many of them but too willing to charge us on the spot with such garbling, had it really occurred. But even our Opponents granted us the merit of accuracy and impartiality in reporting all that was said by every person who spoke during the whole of the Proceedings; and the charge of garbling or suppressing, which if it had occurred *must* have been noticed here, was never once ventured as far as we remember. The arguments of our Counsel might have been *prolix, useless, and pedantic*, according to the London Oracle's notions: but they were not so deemed here. This, however, we assert with confidence, (and our Counsel are both in Calcutta to confirm what we say) that they not only did not revise their Speeches, but they were never asked for such revision;—and our Reporter (who is also on the spot to confirm our assertion) gave as much attention to what was said by the Counsel against us, as by the Counsel on our behalf, our only aim being to be as full and accurate as possible in every stage and portion of the Proceedings, and to give to the world the faithful and impartial Report which all parties acknowledged to deserve that character.

(8) How apprehensive we were of an impartial and unbiassed Jury, may be gathered from this simple fact, that the very ground of proceeding against us by this very Criminal Information, was our having thus said of British Juries:—

"For our cause, we are willing to confide it to the breasts of our countrymen—the 'Twelve common Tradesmen of Calcutta,' to suppose whom capable of judging an affair of such importance to the State, as an allusion even to the conduct of any of its Public Functionaries, was treated as a flagrant and enormous libel!! The British Laws have constituted honest Juries, as the only fit and proper Guardians of the State, as far as Libel as concerned; and we now see, that the united judgment of 'Twelve common Tradesmen of Calcutta,' but late so foolishly decided—

wonderfully sensitive to public opinion, when about to be given in the form of a verdict; wonderfully alive to the importance in their own cases of exciting favourable prepossessions, or starting technical difficulties, previous to an adjudication of their own cause. Our Radical gentry at home entertain these feelings, and resort to these expedients for themselves, exactly in the same ratio that they charge them upon others; and are equally active in their endeavours to prejudice Juries in their own favour, as to expose them to popular resentment, should they fail to visit with severity the offences of their opponents.—But we believe Mr. Buckingham denies that he is quite a Radical. (9)

is held to be more legal than any man's discretion. To this are we come at last; and having arrived thus far, we trust that no consideration will again induce a recurrence to the arbitrary power of Summary Punishment, setting at naught that which was the glory of our ancestors, and ought to be for ever cherished by their descendants, wherever their lot may be cast. To these "Twelve common Tradesmen of Calcutta," we willingly commit our cause."

"Let those who have to sit in judgment on our motives and our deeds, banish from their minds all considerations but those of that pure and upright conduct which alone can acquit them at the bar of Public Opinion, before which they and all men stand:—and knowing as we do those motives to have been pure, and those deeds intended for the benefit of the community at large, we have sufficient confidence in the integrity of any "Twelve common Tradesmen of Calcutta," that may be summoned as our Judges, to believe they will render us impartial Justice, which is all that we require at their hands."

This, then, is what the Lendenhall-Street Seer calls being "wonderfully apprehensive of an impartial and unbiassed Jury"—We do not know whether it be his ignorance of the English language, or his want of English feeling and regard for fair dealing that is at fault here; but either he does not understand the case, or he has wilfully misrepresented it.

(9) What a "Radical" really is, we have never yet seen satisfactorily stated. Some of the London Papers consider all ragged men to be Radicals.—Thanks to our industrious Durjee, we are not of that class. Others consider half-starved and famished weavers to be Radicals.—Our Khansamah and Babburches keep us in too good condition to fall under that denomination. Some again consider none but those who desire Annual Parliaments and Universal Suffrage to be truly Radicals; of which we are still guiltless. And lastly, others consider those Radicals who lament the evils of excessive taxation, who contend for an actual as well as nominal representative Government, and who believe that the only legitimate or justifiable end and aim of just dominion is the benefit of those over whom it is extended. If this be the characteristic of a Radical, then we are free to confess that to that class we are proud to belong. Even then, however, the application of such a term to any Indian Editor, would apply only to one; and that one would be the short-reigned but excellent JOHN THE FOURTH; who was the first to venture, through the pages of the BULL, to speak of the excessive taxation of India, of the benefits withheld from the people by opposing Colonization, and of the propriety of establishing a Representative Government without delay.

We had nearly omitted a striking instance of this Editor's himself committing the very fault of which he so wrongfully accuses us, namely garbling a Report. He could only assert it of us; but we shall prove it against him. For this purpose it is sufficient to state that he has omitted the Notes to the Report throughout; though many of them are indispensable to the subject. One of them is so strikingly in point to the present state of things, when all the rancor of former days seems about to be revived, that we give it a place here.

The following passage in the Speech of Mr. MONEY is carefully given entire in the ASIATIC JOURNAL's Report.

"This was a momentous question, and their Lordships might see the strong interest that it had excited; for this very morning, a gaecater assemblage of persons were to be seen in that Court, than were ever known to be present on any former occasion. But it was not here only that it excited an interest. It was felt, and their Lordships' decision anxiously looked for all over India, as the case was most momentous. "Far be it from me" said the Learned Counsel, "to raise my puny voice against the Liberty of the Press. It is one of the best means God has put into the hands of his creatures, for enlightening and civilizing mankind. The Press, however, is a different Engine, when wielded by a person who chooses to make a wicked use of it, as has been done here. Here, persons have gone about looking into private houses, invading the quiet of domestic life, breaking the peace of families, destroying the confidence between friends, betraying their secrets and have brought Society to a state which requires your Lordships' interposition to prevent."

The following Note on this portion of the Learned Advocate's Speech is wholly suppressed:—

"This portion of the learned Gentleman's Speech was heard with that silence and attention with which persons listen to any thing at once new and surprising: with that wonder which men naturally evince when they are told of something, which, if true, they ought to have themselves discovered long before. We cannot stop here to remark on the wisdom of an Advocate who never sees or reads this Paper, (which is Mr. MONEY's case, also) attempting to delineate its general character to those who see it daily and can judge for themselves; but on some future occasion we may find room to ask him who are the persons that go about looking into private families? and whose are the secrets that this Press has betrayed? If these things have really taken place, and the Conservators of the Peace and Guardians of the Public Quiet, have looked on for three years without interposing, their vigilance cannot be a subject of much praise. The truth is, however, that any and every invasion of private life has been encouraged, tolerated, and approved, by those who opposed the CALCUTTA JOURNAL, when its Editor's history, travels, pursuits, family, and connections, were made the subject of ridicule and invective, and his private and domestic circle so far invaded as to have two young ladies, who were staying for a few weeks only under his roof as visitors, dragged into the Newspapers (when the present Editor of JOHN BULL wrote the HURKARU,) and characterised as Fair Radicals who wrote for the Public Prints! All this has been passed over by those who raise their voices so loudly against the licentiousness of the Indian Press; but now, that public men and public measures are even alluded to, a double Prosecution is instituted against a JOURNAL, that is as free as any on earth from private slander, though more devoted than any other in India to questions of public policy and of public good!"

To whom the charge of "garbling" most fitly applies, let the Indian Public, and such portion of the English Public also as may see this, judge.

We trust, by the time these Sheets reach England, the Honorable Company's Publishers will have obtained a wiser man for their Editor; or if they cannot get some one better acquainted with India and Indian subjects, they will very soon be outstripped in their career by some rival, whose claims to attention will be founded on a firmer basis than their own.

Reply to A Querist.

To the Editor of the Journal.

SIR,

Though I cannot be supposed, as a mere Reporter, always to be able to point out the authority of any quotation used by the Speaker, whose exact words I endeavour to take down, yet having some time since been engaged in the perusal of Tacitus, I have it happily in my power to inform your Correspondent QUERIST, that the passage he alludes to, is to be found in the 4th Book of the Annals cap. 69. The passage is somewhat obscure, but by supposing "fiduciâ" or some such expression following *egens*, it will, I think, be rendered perfectly intelligible.—Yours,

Calcutta, Nov. 16, 1822.

PLEBS.

Erratum.

In the short Article, headed "AN OLD STORY REVIVED," in the JOURNAL of yesterday, by an error of the Printer, "John the Second" was inserted instead of "John the First." The distinction is a material one: for it must never be forgotten that the story of Radicals intending to subvert the Government, and the gross personalities of which we have at present to complain, ceased at the accession of John the Second, who in his Editorial articles always abstained from the virulence and personality that characterized his predecessor. John the Third was harmless in this respect also: and John the Fourth, who so soon quitted the throne, perfectly free from such a blot. It was not until John the Fifth returned that such Letters as those which lately appeared, could find room;—and his Successor, John the Sixth, appears determined, with the countenance and approbation of his Employers, to bring back the days of the old "VERUM ATQUE DECENS" again, if the Public will be so kind enough to tolerate them, which we trust however they will not long.

Marriages.

On the 16th instant, at St. John's Cathedral, by the Reverend D. CORRIE, Captain WILLIAM WORSLEY DAVIS, of the 6th Regiment of Native Infantry, to Miss LETITIA GILLANDERS.

On the 15th instant, at St. Andrew's Church, by the Reverend Dr. BRYCE, Mr. C. MACDONALD, of the Ordnance Commissariat, to Miss S. G. C. HANNAH.

ASIATIC DEPARTMENT.

—237—

Law Report.—Illegitimate Children.

From the *Hurkaru* of Saturday.

The great legal question, heretofore involved in doubt and obscurity, decided in the following case, being so very important especially to the Indian Community, we have been anxious to give a correct account of it as circumstances would admit, and feel much pleasure in acknowledging the assistance we have derived from a Friend who also took notes in the Court, to whose kind exertions and professional knowledge is entirely owing the superior accuracy with which we are enabled to record the legal opinions delivered on this occasion. As an additional reason for the pains bestowed on the following Report, we may state, (and to compare an individual with himself, altho' it may be the highest degree of praise, cannot be flattery,) that we have understood it to be the unanimous opinion of the Gentlemen at the Bar, and other persons present, that Sir FRANCIS MACNAGHTEN, never on any previous occasion delivered his sentiments so ably or displayed so much legal knowledge and research, as he did in pronouncing judgment in this case.

Henry Williams, Esq. and Elizabeth Ann North and Thomas Holcroft.—Counsel for Mr. Williams: John Wheatley, Esq.—Counsel for Mrs. North and Mr. Holcroft: R. C. Fergusson and George Money, Esqrs.—Attorney for Mr. Williams: W. H. Smoot, Esq.—Attorney for Mrs. North and Mr. Holcroft: A. Duff, Esq.

SUPREME COURT,—CALCUTTA, NOVEMBER 7, 1822.

This cause has for a long time occupied the attention of the Inhabitants of Calcutta, and the result was looked forward to with much anxiety by all classes of society, inasmuch as it involved the great legal question of who were to be considered the lawful Guardians of illegitimate Children;—The Court was consequently much crowded.

Mr. FERGUSSON rose to shew cause why the four illegitimate Children of Henry Williams (of the Bengal Civil Service, and late Commercial Resident at Commercolly) then in Court, under a Writ of Habeas Corpus, which had issued at the suit of the Father, should not be restored to Elizabeth Ann North, the Mother, from whom they had been taken when on the point of proceeding to England on the Ship *MARY*, in company with the other defendant, Holcroft.

The Petition of Mr. Williams and the Affidavits in support of it, upon which the original Writ of Habeas had been granted were then put in and read by Mr. Lewin the prothonotary.—The Petition which was presented on the 29th of August last, and addressed to Sir Francis MacNaghten, stated, that Mrs. North had been under his protection 25 years, and had borne him during that period Ten Children!—That taking advantage of his temporary absence from Calcutta, she had clandestinely left his House in Chowringhee, in company with a Mr. Holcroft, who had been engaged to act as a Tutor in his family, and with whom she was then cohabiting; and that she had carried away with her, four of his Infant Children, all under twelve years of age, with intent to embark for England; and concluded with a prayer that a Writ of Habeas Corpus might be issued, calling upon her to produce the Children before his Lordship without delay.

The Affidavits of RAMTUNOO SIRCAR, SHAIK AWZEEZOLLAH, JEW LOLL, and CONNY stated the fact of her leaving Calcutta in company with Mr. Holcroft, and that shortly after Mr. Williams had left his residence in Brijetollah in May last, on a Journey to Patna, Mr. Holcroft (who was previously engaged at a monthly Salary of Sa. Rs. 150.) and had before appeared as a dependant, and had no controul whatever in the house, became very familiar in his address and conduct towards Mrs. North, and assumed great authority over the servants;—That he ordered his bed to be removed to an Upper Room adjoining that in which she slept, and the deponents had frequently seen them sleeping together on the same bed, and concluded by swearing that they verily believed Mr. Holcroft and Mrs. North lived together as husband and wife.* The affidavit of Mr. Williams followed, which at great length detailed all the circumstances of the case, adding that it would be highly prejudicial to the morals and welfare of the said Infants were they to continue with their Mother, and evincing a most anxious wish that they should be brought up, and educated respectably as the rest of his Children had been (under the care and superintendence of his relatives in England,) and who were at this time living in the best, society and connected with persons of the highest respectability; many of them filling Situations of trust in the Service of the Government of Bengal.

After these had been read, a desultory conversation ensued between Mr. FERGUSSON and Mr. WHEATLEY, as to the new matter disclosed in the last affidavit (to the introduction of which Mr. Fergusson had objected) and as to the reading of those sworn to on the part of the

* These Affidavits further stated that the parties were still living in the same House at Garden Reach.

Defendants, when Sir FRANCIS MACNAGHTEN directed Mr. Lewin to read them to the Court.

These Affidavits were extremely numerous and very long and went to show that no criminal connection had, or did at the present time exist between Mr. Holcroft and Mrs. North;—That Mr. Holcroft had resigned his situation on first being accused by Mr. Williams of the above charge, but had continued to reside in the House afterwards, and superintend the Children's education at Mr. Williams's earnest entreaty; * that they were proceeding to England not clandestinely but with Mr. Williams's knowledge and consent, and that Mr. Holcroft had been still entertained merely as a Tutor to the Children. These Affidavits were sworn to by Mrs. North, Mr. Holcroft—Shaik Awzeezollah Durwan, Puglee Ayah,—Tainchor Ayah; Gualaaf Khidmutgar;—Doordanuah Ayah; and Gool Khan, Coachman.

The Letters addressed by Mr. Williams to Mrs. North, several were adduced in evidence, in order to show the terms on which the parties were at the period Mrs. North was preparing to leave this country. The whole of these letters breathed the most fervent and anxious wishes for the health and prosperity of his children.

Mr. FERGUSSON then addressed the Court. He began by observing that he was sorry for the necessity that had been imposed upon him of laying before the Court a great part of the grounds which he was compelled to adduce in this case by the affidavits filed in support of the original Habeas, which he thought were of the most infamous description (for that was a term he might with justice apply to them).—Mr. Williams, continued the learned Counsel, not satisfied with obtaining possession of the persons of his children, must asperse both the Lady and Mr. Holcroft, who seemed totally undeserving of the accusations which had been so lavishly heaped upon them. He was anxious to support the character of the young man; as Mr. Holcroft was in such a situation of life that every thing depended upon his good name, which had been attempted to be blasted by the affidavits that had been filed in support of the writ.—It was cruel to solicit him to accept and continue in this situation, and then heap upon him those charges to which he was exposed by being in the performance of the duty he had undertaken.—The learned Counsel saw no ground at all upon which this case was supported, but by slanderous aspersions which had been completely answered by affidavits from the other side: indeed had never seen a case more completely answered. In any way in which this case could possibly be taken, Mr. Fergusson submitted that the children must be delivered up to the mother, who was their natural and lawful Guardian.—All that could be alleged against her was that she had lived with Mr. Williams in a manner that could not be altogether commended, but after being 23 years together Mr. W. should be the last person to urge this against her.—She was otherwise blameless; ten or twelve persons having distinctly negated the charge of Cohabitation between Mr. H. and her; and where was the likelihood or probability, he would ask, of the morals and principles of these Infants being corrupted whilst under her protection, now that this part of the charge had been so completely rebutted?—She was the proper Guardian of the children; and as the matter stood she must have the custody of them. A mother could not in any case have the custody of her offspring if it was in this case to be taken from her.—Was there, he asked, a single fact advanced by these witnesses (one of whom Mrs. North had sworn had been formerly tried and convicted for felony) that had not been completely negated? Allowing Mr. Williams's statement to be true, not one of these 12 witnesses but must be perjured.—The learned Gentleman knew nothing against the character of Mr. Holcroft; he had heard nothing to his prejudice till that day.—He was the son of Mr. Holcroft of Literary celebrity, as his Lordship knew; and the learned Counsel believed a very honest man. Now he had sworn positively that there was no ground whatever for the insinuations urged against him and the Lady. The question at issue was this, Who had the right to possess illegitimate children, the reputed Father, or the known Mother? The law of England said the Mother; and did not even recognize the Father except for punishment in obliging him to make a pecuniary sacrifice for the support of his issue. The person who took upon himself to withdraw a child from the protection of its Mother, ought in his opinion to be prepared with a very strong and extraordinary case to warrant such a proceeding.—The learned Gentleman after adverting to a Case in the new Reports in the matter of *Knee* (afterwards fully stated) continued his address.—Mr. Williams had told his Lordship

* To explain this, it appears that after Mr. Williams's suspicions had been first roused by the present of a valuable Diamond Brooch made to Mr. Holcroft by Mrs. North; she succeeded in lulling them again; in consequence of which he apologised to Mr. Holcroft and asked him to resume his situation; but soon after from some circumstance not stated, Mr. Williams's suspicions revived and were finally confirmed.—It therefore suited the argument of Mr. Fergusson and Mr. Money to comment strongly on this reconciliation; and if Mr. Wheatley had not intentionally avoided discussing the criminal connection, he would naturally have laid as much stress on the second cause of quarrel.—*Ed. of the Hurkaru.*

that he could provide for these children. How, he would ask, was he to do so? Where was he to obtain the means to support and educate them? Had not Mrs. North's affidavits already set that matter completely at rest, by shewing that his present circumstances were in such a state as to prevent the possibility of his doing it? But admitting him to possess the means, he denied that the right over these Children lay in the Father. It was on the contrary an established and generally received principle, that it existed in the Mother, who in this case was both willing and able to supply all their wants.—It had been decided in the case already quoted, that they could not be taken from the mother unless strong grounds against her keeping them were adduced.—Here no grounds for doing so remained; for as to the allegations against the lady and Mr. Holcroft, they had been completely negatived on Oath; and they of course must be perfectly *COGNISANT*—and much more so than the witnesses on the other side or any one else—of the circumstances to which they had sworn. Before Mr. Williams could be allowed the custody of these children, there were two points to be established: first that the Mother was an improper person to have charge of them, and secondly that they had been taken away *clandestinely*, without his knowledge or contrary to his declared wish: Now in both of these points, the case was the very reverse. Mr. Williams, he contended, had full knowledge of their intended departure, and had not at all interfered to prevent it; but had in fact given his concurrence and consent to the arrangement, and was himself a party to their carrying away, and was desirous of accompanying them on their voyage. They had been left in her custody for a purpose authorised by him, and which he had subsequently abandoned to answer his own purposes. Here the learned Counsel adverted to the irregularity of the Officers' proceedings in serving the original Writ of Habeas on Mrs. North; contending that she had given up the Children under the impression that the hand of the Law was upon them; when the proper and legal course would have been to have served the process only, and left her at her peril to produce them at the time and in manner directed by the Writ; and concluded by begging the Court under these circumstances to restore the Infants to the person from whom, he submitted, they had been wrongfully taken.

Mr. MONEY followed on the same side.—Natural Children, he said, belonged exclusively to the Mother and that the Father had no right or claim over them at all. Children in that situation are laid down by Blackstone to be (accordingly to the Law of England) "The Children of Nobody," and placed under the protection of the King; and his Lordship would therefore in such a case as the one then before him, deliver them over to whomsoever his Lordship pleased. But even altho' such children were held to be as the Children of Nobody, yet the Mother had a prior claim, as they were in her natural custody. In the case then before the Court there could be no question, but that the Mother had quiet and undisturbed possession of the Infants, until they were removed from her protection by means of the Writ of Habeas; and the only ground upon which they had been thus forcibly taken and withheld, was her alleged prostitution. The Affidavits which Mr. Williams had just put in, were calculated to make out a very cruel case; but with respect to these Mr. Williams stood under rather unfortunate circumstances; for he had there sworn in direct contradiction to what was contained in his Letters to Mrs. North, which had been embodied in the Affidavit of that Lady, which had been read to the Court.—The learned Counsel was, he thought, at least justified in saying, that Mr. Williams had *prevaricated*.* Taking the Letters and Affidavit together, no conclusion could possibly be come to, as they differed so materially. These Letters admit that all his suspicions (at that time) with respect to Mr. Holcroft were without foundation; yet in the Affidavits he makes a direct charge against both him and the Lady; therefore the Affidavit was not in his opinion worth one farthing. When Mr. Holcroft understood that Mr. Williams entertained such suspicions did he act like one who was guilty? Certainly not: Mr. Holcroft like an honorable man when a stigma was unjustly thrown out against him, says "I will go away

* We cannot suffer this accusation to go forth to the world without stating that (although it might be in the Counsel's Brief,) we believe from all we have heard of the case, this charge rested on no foundation whatever, except Mr. Williams's change of opinion with regard to the fidelity of the Lady, as already noticed; according as the proofs for or against it preponderated in his mind. He first trusted—then suspected her; was again lulled into confidence, and lastly his suspicions were confirmed. The opinions he expressed at these different periods are necessarily very different; and therefore the Learned Counsel very *charitably* accuses him of little less than perjury—at least of prevarication! If such an illiberal rule were to be adopted as one of the Canons of Morality, no man could confess a change of sentiment, even on matters of the greatest doubt—not excepting the Four Wonders of Solomon—without his character being blasted with the charge of prevarication. The Leading Counsel on the same side, whom we may safely suppose to have understood the case at least as well as his Junior, did not, as far as we can recollect express any such opinion.—*Ed. of the Harkara.*

—I will not remain to be unjustly suspected. I will above all things take care of my reputation." The innocence of both parties was manifested by their conduct on this occasion. If such intimacy had existed as was charged against them, Mr. Holcroft would not have gone away, but would have staid, and they would have said—"Now we have got rid of Williams, we shall live together and enjoy ourselves without restraint." When Mr. Holcroft left Mr. Williams's House, who applied for his return? was it Mrs. North? Not—it was Mr. Williams himself who did it. Would he have needed to make such an application to him if guilty; or would Mr. Williams have made it to a man whom he suspected of criminal intimacy with the Mother of his Children? No! Then why was he dragged into this affidavit.—The only way in which the learned Counsel could view the case to put Mr. Williams in a favourable light, was to suppose him led away by unjust suspicions.—Mr. Williams in his Letters to Mrs. North tells her that he held no appointment, and had nothing but the bare walls of a Jail staring him in the face, conjuring her to provide for the children; No man in fact could be in a worse situation than he had made himself appear; and yet after this he comes before the Court and offers to provide for the bringing of them up!—He says that he objected to their going to England, how could this be? Did he not concur in all her arrangements; and was it not with his consent and approbation that it was done? He tells her in one of his Letters "Make your will; appoint Guardians; send your children to school; provide for them;" and then he comes before the Court and complains of having been tricked out of them! He leaves his House on the 1st of May and does not return for 3 or 4 months, leaving her and them without protection during all that time;—At length she intimates her intention of embarking for Europe; and he immediately signifies his desire to accompany her; and the probability was that on her refusal to allow him to do so, that he revoked all he had said and done and deprives her of her children, thus wounding her maternal feelings and making her very heart strings to yearn (This was delivered with great effect, and with the action that accompanied it appeared to make a great impression on the ears of all present: When the sensation had subsided Mr. Money continued) Mrs. North, he said, had undoubtedly the custody of these children with Mr. Williams's consent and approbation, and had she not offended him these proceedings would never have been heard of. By the Poor Laws an illegitimate child belonged to the Mother, and in the event of its being left destitute it was to her parish, and not to the Father's that it was sent. The Law directed the Father to pay for his sensuality; but awards the offspring to be given to the Mother she being its only natural and lawful Guardian. It was laid down in the Books, that the Mother was the natural Guardian, the child following the Mother:—

Sir FRANCIS MACNAGHTEN.—"That is taking a mere *arbitrary* view of the case: the Mother is certainly the natural Guardian of a natural child: that is well known all over the World."

Mr. MONEY admitted that if a child had always been in the sole and exclusive custody of the Father, that a Court of Law would not interfere to give it up to the Mother; but here it was clear that the children had always been under her protection. The learned Counsel next mentioned the case of *Miller and DeCosta*, as being favorable to his argument; but

Sir FRANCIS MACNAGHTEN interrupted him, by observing that in that instance the Bench from the peculiar circumstances brought to its notice could not avoid delivering the child up to the Mother; but that Lord Eldonborough in the 7th East's Reports, was reported, to have since decided that the Mother had no right to the possession of her illegitimate child at all.

Mr. MONEY admitted that where a child had been placed with a particular person by the joint consent of both the parties, the law would not take it away, to place it under the protection of one of them; but in this case it was clear that the children had been under the exclusive care of the Mother where they had been placed by the Father himself. Mr. MONEY, in conclusion, remarked that he had not dwelt as he might have done, on the tender feelings of a Mother towards her children which could not fail of being taken into consideration by the Court.—Mrs. North had returned to Calcutta at a great sacrifice in hopes of having them given up to her, and he hoped his Lordship would set aside the Habeas, and order the Infants to be restored to their Mother, whose feelings, he thought, under such distressing circumstances, ought to be considered.

Mr. WHEATLEY then proceeded to address his Lordship briefly in support of the Writ of Habeas:—In reasoning of the law of the Case he contended that even if it were admitted according to the case of *Knee* as cited by Mr. Forgeson, that the right of the Mother to the Custody of her illegitimate child within the age of nurture, was superior to that of the Father, yet notwithstanding this superiority it was said by Lord Kenyon in the Case of *The King versus Mosely*, that if the putative Father had obtained the Custody of the Child fairly, he did not know that the Court would interfere to take it from him. This doctrine of Lord Kenyon was held to be Law both by Mr. Serjeant Clayton and Mr. Serjeant Shepherd, in the Case of *Strangeways versus Robinson*,

and was not disallowed by Sir James Mansfield; and Mr. Wheatley believed that this was the last Case that had been reported on the subject. If therefore he could shew that Mr. Williams had had the quiet possession of the only illegitimate Child among the four that was within the age of nurture, notwithstanding the Mother's superior claim, he submitted that the Court would not now interfere to deprive him of it. And as the fact was, that Mr. Williams had had the quiet possession of this infant from its very birth to the present hour, with the exception of the late interruption, he should contend as *pater familias* that Mr. Williams had the full possession, or if his Lordship pleased a joint possession only together with Mrs. North; but that possession be it sole or joint, was fairly obtained with the consent and approbation of Mrs. North, without force and without fraud; and therefore the Court could not interfere at this time to take it away.—And if it could not be contended that Mrs. North had any right to the sole possession of this Child who was within the age of nurture, still less could it be contended that she had a right to the sole possession of the other three Children who were above the age of nurture, at which time it had been generally held that the claim of the putative Father was stronger than that of the Mother. These three Children of Mr. Williams had been sent to England, and educated at his own expence; and he had only had them returned to him in consequence of the death of his Sister; but when they returned they were given up to his custody and possession as before, and had ever since dwelt with him.—Nor did it appear to the learned Counsel, that this possession had ever for a moment been surrendered by Mr. Williams. Was it to be said that a parent by making a Journey on business or for any other purpose relinquished the right over his Children? the journey might have been, and he had no doubt was, for their eventual benefit and advantage.—The temporary absence could not rob him of his right over them. He left them in his own house, the expences of which were supplied from his own funds.—It did not appear that he knew of Mrs. North's removal to Fenwick's Buildings at all, all his Letters being addressed to Brijestollah.—In fact he did not seem to have had any knowledge of her intended departure for England until the very last, when all her arrangements were completed, and she was on the point of quitting Calcutta. She then writes apprising him of her intentions! he is all astonishment as naturally he might be, and what does he then do? Why, immediately writes in reply, expressing a wish to accompany her and her children, adding, that he had procured a swift-sailing Pannaway and would instantly come to Calcutta; thinking no doubt that he should be there long before her embarkation; but on his arrival he found that she was already gone with Mr. Holcroft and the children; and that they had taken measures with such promptitude as almost to escape him. It was upon this clandestine removal of the children without his consent, that he applied for a Habeas Corpus to have them restored to him, and upon the execution of that writ fortunately for himself and his children, he recovered the possession of them. The abstract question of right with regard to the custody of illegitimate children, had never yet been settled, the Judges having always cautiously avoided coming to a decision, in order to reserve to themselves the power of exercising a discretionary authority for the benefit of the children, according to the peculiar circumstances of whatever case might be brought before them. In the case of legitimate children the Law gave the father a prior claim to their custody, even to the disadvantage of the children; but in the case of a natural child the court had always hitherto exercised a salutary discretion, and as Lord Ellenborough and Sir James Mansfield had not come to any decision on the abstract right, Mr. Wheatley presumed, that his Lordship would follow the same course, and also abstain from doing so. If the right was declared to reside in the Father, it might happen as Sir James Mansfield said, that the greatest vagabond on earth, who was father of an illegitimate child, might take it from good Guardians who were bringing it up properly; and if the right was declared to reside in the Mother, the most abandoned woman might claim it from a Father who was taking the greatest care of it. The learned Gentleman with great delicacy declined reverting to the affidavits as to whether or not a criminal intercourse existed between Mrs. North and Mr. Holcroft and would not therefore attempt to balance the contradictory statements contained in them, but would rely upon the Law of the case as it was laid down in the *King v. Mosely* which would not allow the Father to be disturbed in the quiet possession of the children after that possession had been fairly obtained.

Mr. FERGUSSON replied:—He perfectly agreed with Mr. Wheatley as to the position in which this case stood, and as he had chosed to place it on so narrow, and he thought so sensible, a ground, he would ask in whose possession were the Infants when Mr. Williams applied for the writ of Habeas? Mr. W. had left the House at Brijestollah without any cause and for no ostensible purpose. He remained eight days at Dum-Dum near to Calcutta without going near his family; and if he thus voluntarily abandoned them, was he now to come before a Court of Justice and say that they had always been in his Custody? He knew they were going and did not interfere to prevent it. The ground on which Mr. Williams had applied to the Court for the writ of Habeas that the children had been clandestinely carried away, was completely

taken from under him: and the Court would therefore put them in exactly the same situation as they were when that application was made.—The matter then before the Court, Mr. Fergusson observed, did not interfere with the question referred to the Master as to who were the proper guardians of their persons and property. If all the circumstances now in evidence had been truly stated to his Lordship upon the application for the Writ, would he have granted it? No! He was sure he would not. In one of Williams's Letters demanding a separation from her, he speaks of the children, and gives them up entirely to her controul and in management, and tells her to do as she pleased with them. The learned Counsel contended that Mr. Williams stood then in precisely the same situation as he did at the time of applying for the Habeas in the first instance. He agreed with Mr. Wheatley that this was a dry question of Law, and that the Courts had always evinced a disposition to leave the matter open, so as to enable them to decide in each particular case accordingly to the facts.—Here the matter at issue was whether Mr. Williams had a right to take them away from the mother or not;—There had been nothing to shew that they had been legally taken out of her custody, and if there had not, his Lordship must restore them; but he admitted that were the mother living in the state described in the affidavits, she ought not to be allowed the custody of her female children; but this, as his Lordship knew, had been completely negatived, and therefore the learned Gentleman thought they ought to be restored to her care and protection.

SIR FRANCIS MACNAGHTEN proceeded to give Judgment. He commenced by observing that he should have been extremely glad if this matter had never been brought forward in Court at all.—No person could disapprove of it more than he did; and speaking candidly, he thought both parties had been much to blame in their conduct towards each other since these proceedings commenced. As to the chastity of one of the parties concerned, on which great stress had been laid, he would say as little as possible. The parties implicated had both denied any criminal intercourse, and they certainly must be supposed to know best; but against this, strong Affidavits had been filed by the opposite party detailing facts and scenes which, to speak moderately of them, were of a very suspicious appearance. As to the Affidavits which had been sworn to by the persons in verification of Mr. Holcroft and Mrs. North's Statement, they went merely to negative the fact: viz. that they had not been witnesses to any improper familiarity or criminal intercourse, and that they believed such a thing if true, must have come within their knowledge. Much importance had been attached to Mr. Williams's Letters; but his Lordship thought that every person must perceive that his mind was much disturbed and distracted at the time he wrote them; and the Learned Judge had no doubt but that even his friends would admit that many things were said, written, and done by Mr. Williams without thought, or deliberation, and almost unconsciously, that could not altogether be approved; his Lordship verily thought they ought not to be taken as containing his real or deliberate sentiments; yet that it would be difficult to make any thing but folly out of those after all. As to the Law of the case, Sir James Mansfield had said that he would not go the length of determining that any putative Father, whatever was his character, had a right to the possession of his natural child, which amounted to an admission, that the Father was not necessarily to be debarred of such possession, if he was a man of good character; but it may be inferred that Sir J. Mansfield did not intend to negative this right, as against the Church Wardens tho' it may not be admitted, that he had it as against the Mother. In the *King v. Soper*, 5 T. R. Lord Kenyon had declared inadvertently as he (Sir Francis Macnaghten) supposed, if his words are not misreported, that the Father had no right to the possession of a natural child. This was a case of fraud. The child had been fraudulently obtained by the Putative Father, and the court ordered it back to the possession from which it had been so taken. Lord Kenyon, however, in a very short and unsatisfactory report of the case, is made to declare that the Putative Father had no right. The next case which is reported to have come before the same Judge, is the *King v. Mosely*, in 9th EAST. In this case *Rex v. Soper* was cited. The application was, he (Sir Francis Macnaghten) supposed made by the Mother, certainly against the Putative Father. Lord Kenyon is here reported to have said that he did not mean to impeach the authority of the case cited, but where he (the Father) had got possession of the child by force or by fraud as was there suggested, he could interfere to put matters on the same footing as before. If (Sir Francis said) Lord Kenyon actually used the language ascribed to him in *Rex v. Soper*, he certainly did most materially impeach that case here; for he had there declared, that the Putative Father had no right, and in the case before the Court, he says "Where the Father has the custody of the child fairly, I do not know that this Court would take it away from him." After this it cannot be said that the Father has no right. Again, in *Ex parte Kneel*, 1 N. R. 148, Sir James Mansfield had said in the commencement of his judgment, that there was no Affidavit before the Court, to shew any ground of apprehension that the child would incur any danger from being left with the Mother; and he concludes his judgment with a similar declaration. He does indeed speak of the Mother's

right; yet he says the Mother must have the Child *unless some ground be laid by Affidavit to prevent it*; which is saying in effect, that if there had been ground laid, the Court would not have given the Child to her. But there the question was not between the parents, and although it resembles this case in some respects it is perfectly unlike it in a main point, namely, the Father was not a contesting party, but out of the kingdom and abroad at the time. The Father and Mother had agreed to put the Infant with a particular person to nurse.—During the Father's absence a friend of his removed the child, offering the mother access to it; but this she was not satisfied with, and applied to the Court to have restored to her, it having been fraudulently taken out of the joint possession by a third person. Two years after this decision Lord Ellenborough said in the *King v. Hopkins and his Wife*, 7th E. R. 579, that he very much doubted, whether the Mother had any right to the custody of the child at all. Upon consideration, however, Lord Ellenborough as it was a case both of force and of fraud, the Child first having been obtained by fraud from the Mother and after its restoration having been taken by force (expressly declaring that he had nothing to do with the guardianship of the Child, and that it belonged to another person)—adjudged, that it be restored to the quiet possession from which it had been both fraudulently and forcibly removed. Sir Francis added, that in this case, it did not appear who the Defendants, Hopkins and Wife, were; but there was no reason for supposing that Hopkins was the father. These are all the cases relating to natural Children upon Habeas Corpus. In the *King v. De Mainville*, he was the legitimate father and was ordered to have a right to the custody of the child. In the case of *Strangeways v. Anderson*, the question arose between the Father and the overseers of the poor. When Sir James Mansfield long after his decision of *Ex parte Kaez*, went no further with respect to a Putative Father's right than to declare "he would not go the length of saying whatever might be the character of the Father that he should be entitled to the possession of the child." SIR FRANCIS MACNAGHTEN added, that the inference to be drawn from these cases was, that the Courts of Law were very averse to interfere with the possession of Natural Children, unless fraud or force had been used on one side or the other—and that the Court of Equity was the forum to which recourse ought to be had. He thought Mr. WHEATLY had taken a very just view of the case, and put the question on the right ground, that if the parents have a joint possession, they had each a right to be maintained in it. It would indeed be absurd to say, that the two were not to be maintained in a joint as well as either, in a several possession. Now the question here was this: Was the possession joint or not?—For himself his Lordship could not see where the joint possession terminated. Mrs. North in her Affidavit had sworn, that she paid the Rent of the House, maintained the Children, and provided for her and their passage to England; but it would have been satisfactory to his Lordship, if she had stated where she obtained the means to do all this? On the 8th of May, Mr. Williams, writes to her, (as she admits by her own Affidavit) that he had 800 Rupees a month; four hundred and fifty of which were borrowed; and that if she received the whole of this, she must pay the maintenance of the children, and recommended that they should be sent to school here. To be sure; and were not these most reasonable terms? After having given all he had and encumbering his already encumbered state still more, for the purpose of maintaining his children, declaring his apprehensions of a Jail, and that he would throw himself upon the charity of his other children, trusting to them for his subsistence, was it too much for him to expect, that she should apply the 800 Rupees a month, thus obtained, to the purposes for which it was intended? How after this could she come and swear that she paid ALL herself? Why had she not denied this, if it was untrue? If she had, the case might have been different. We have not heard that she refused the money; but from her not denying that fact, must conclude that she received it. How did she answer this letter? Did she write, "Sir, you abandoned the Children on the 1st of May, and are very impertinent to give me any directions about them." Or has she given us any reason to suppose, that the children were not maintained at his cost! How is a man to have possession (or a right to it) of his family, in his absence, if his payment of their expenses will not give it to them; or if it is not concluded from that circumstances that the possessor is his, altho' preserved for him by the person who receives his money? He thought that the journey to Patna not being then considered by her as an abandonment went for nothing.—It might have been business, that drew Mr. Williams there; or it might have been pleasure: no matter which; but altho' he was absent, his thoughts never appear to have wandered from his children; for on the 8th we find him writing in the most affectionate terms, saying "that all he has is for them." He gave up the whole of his allowances, borrowed 450 Rupees a month more, and devoted it to his children, under the management of Mrs. North. Did this express abandonment of them, or any thing like an intention of giving up his right over the children? If his Lordship had found the question of criminal intimacy at all connected with his decision or embarrassing him in the least, he should certainly have entertained very great doubts on the subject. There were a great many coincidences in Mr. Holcroft and Mrs. North's

proceedings, their going away from Calcutta together, returning in the same boat and subsequently being together under one roof, that could not be well accounted for on any supposition but one; but these were matters for the consideration of the Master. He repeated that if they had interfered at all with his decision he should have regarded this part of the case with great suspicion; and that considering the age of the Children and the sex of two of them in particular, that it must necessarily make a most important point for consideration when the Court of Chancery come to appoint a proper guardian for them. The Court was now only considering who should have the custody in the meanwhile Mr. Williams went to Patna leaving the Children with Mrs. North in his House at Brijetollah where they had always been and where he paid the Household expenses; for this is not negatived. She does, indeed, swear equivocally (and Sir Francis supposed it was true) that she paid the expenses after she had removed the family from Williams's house—but many days did not elapse between that and her departure for England.—She takes another House about the 10th of August or only 20 days before she and Mr. Holcroft wished to get off to England, bag and baggage; and actually embarked on board the Ship with the children.—The Rent of this House, His Lordship admitted, she had paid because she had sworn it, and who else was to do it after she had chosen to leave the house Mr. Williams had provided for her in Brijetollah where he left her? It was a further proof of Mr. Williams's contrivance over the Children, that he had sent them to England and consigned them to the care of his sister. When she died, (and it was her death that occasioned their return to India) Mr. Williams sent for them. It was by his power over them, that they returned to his House, and to his protection. Mrs. North had agreed to their going away, and had no concern in the bringing of them back. When Mr. Williams heard of her intention to go to England, he writes as it was very natural for a Father to do, especially if a fond one,—“can't I accompany you?” “or let me accompany you.” His affection for his Children appears to have been tender, tho' not expressed in terms, so romantic as his love for her. He adds that he will come down to Calcutta, immediately, and he does so as speedily as possible in a fast-sailing Pannaway; but on his arrival he finds her gone and the Children with her! Under such circumstances it was very natural he should be dissatisfied. It did not appear to his Lordships that the joint possession on Mr. Williams's part had even been lost, and inasmuch as the Lady herself had broken off the connexion and made it impossible that the joint possession should continue any longer, it surely could not be thought by any one that by such an act on her part, he should be deprived of his rights—it was owing to her that he must now have the sole possession, or be wrested out of the custody which he had held with her in common. He could not have the measure to which he seems entitled by the principle established in all the cases, unless he is restored to some possession—and it is by her means that he must now have the sole custody or be most cruelly wronged. His Lordship then proceeded to observe he did not mean to discuss this as a question of Ethics, and that he was at best no great Casuist, but that under such circumstances as those in which Mr. Williams and Mrs. North were placed, it became their duty to make a sacrifice of their passions and feelings to the interest of the Children they had given life to, by an indulgence of their sensual desires. They had lived together for 23 years, and ten children were the fruit of their connexion. Whether under such circumstances their intercourse ought to have ceased or continued, might be variously considered by persons who took different views of it, as a question of morality; but it ought not to have been dissolved as it had been, in a manner the most prejudicial to their offspring. Upon this point he said he would give no further opinion, except that he thought the parties under such circumstances, were bound to consider every action of their lives, as it was calculated to tend to the advantage or the disadvantage of the family which owed its existence to their criminal intercourse. The interest of the Children would in future be considered by that court in its Equitable Jurisdiction and with respect to that he had not now to come to a final decision. Sir FRANCIS concluded a most argumentative and impressive speech which we find ourselves quite unequal to the task of doing justice to, by declaring that in his conscience he firmly believed the children were as well if not better off, and more comfortably and reputably situated in the custody of the father, than they could possibly be in that of the mother; and he should therefore refrain from interfering in the matter at all, and leave them exactly where they were until the Master (in Equity) had made his report. We observed Mr. Holcroft in Court during the Argument, and the Lady was also in the Gallery adjoining the Court Room.

Marriage.

On the 16th instant, at St. John's Cathedral, by the Reverend J. PARSON, JOHN MELLIGEN SEPPING, Esq. Surveyor in the Marine Department, eldest Son of Sir ROBERT SEPPINGS, one of the Commissioners of His Majesty's Navy, to MARIANNE MATTHEWS, youngest Daughter of the late JAMES ROBERT MATTHEWS, of Brampton Middlesex.